

ASSISTANCE FOR ELDERLY AND DISABLED REFUGEES

HEARING
BEFORE THE
SUBCOMMITTEE ON
INCOME SECURITY AND FAMILY SUPPORT
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
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ASSISTANCE FOR ELDERLY AND DISABLED REFUGEES

THURSDAY, MARCH 22, 2007

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT,
Washington, DC.

The Subcommittee met, pursuant to notice, at 12:30 p.m., in room B-318, Rayburn House Office Building, Hon. Jim McDermott (Chairman of the Subcommittee), presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON INCOME SECURITY AND FAMILY SUPPORT

FOR IMMEDIATE RELEASE
March 15, 2007
ISFS-4

CONTACT: (202) 225-1025

McDermott Announces Hearing on Assistance for Elderly and Disabled Refugees

Congressman Jim McDermott (D-WA), Chairman of the Subcommittee on Income Security and Family Support of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on assistance for elderly and disabled refugees. **The hearing will take place on Thursday, March 22, 2007, at 12:30 p.m. in room B-318 Rayburn House Office Building.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. Witnesses will include affected individuals and those assisting them. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

BACKGROUND:

The Supplemental Security Income (SSI) program provides cash benefits to elderly and disabled individuals who have very low incomes and limited resources. Maximum monthly benefits equal \$623 per individual and \$934 per couple. Prior to 1996, legal immigrants, including refugees and other humanitarian immigrants, were eligible for SSI on the same basis as U.S. citizens. As part of the 1996 welfare reform law, nearly all legal immigrants were made ineligible for SSI, except for refugees and other humanitarian immigrants who were allowed to receive SSI during their first five years in the United States (which was later extended to seven years).

According to Social Security Administration (SSA), over 40,000 refugees and other "humanitarian" immigrants in the United States could reach the seven-year cut-off for SSI over the next ten years. Some also may lose Medicaid coverage upon the termination of their SSI benefit. These elderly and disabled refugees have generally fled political and/or religious persecution in their home countries and have arrived in the U.S. with little, if any, income or assets.

Obtaining U.S. citizenship would prevent the termination of SSI benefits, but a variety of issues make that difficult. One important barrier to citizenship within the seven-year period is lengthy delays in processing of citizenship and adjustment applications by the U.S. Citizenship and Immigration Services or USCIS. (Refugees and other humanitarian immigrants must first live in the United States for five years as a legal permanent resident before they are even eligible to apply for citizenship.) Processing backlogs have been caused by increases in the number of applications, computer problems, insufficient staffing levels in some areas, and lengthy background checks put in place after the September 11, 2001 terrorist attacks. Additionally, the application process involves multiple steps including a lengthy application, an in-person interview, a test of English proficiency and civic knowledge, and an application fee—all of which might present barriers for elderly or disabled refugees.

In announcing the hearing, Chairman McDermott declared, **"Having fled persecution, many refugees come to this country with little more than the clothes on their backs. We need to live up to our Nation's tradition of providing a helping hand to those most in need by extending assistance to refugees who are too elderly or too disabled to work."**

FOCUS OF THE HEARING:

The hearing will focus on the current limitation on providing SSI benefits to refugees and other humanitarian immigrants.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select "110th Congress" from the menu entitled, "Hearing Archives" (<http://waysandmeans.house.gov/Hearings.asp?congress=18>). Select the hearing for which you would like to submit, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the on-line instructions, completing all informational forms and clicking "submit" on the final page, an email will be sent to the address which you supply confirming your interest in providing a submission for the record. You **MUST REPLY** to the email and **ATTACH** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **April 5, 2007**. **Finally**, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone and fax numbers of each witness.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://waysandmeans.house.gov>.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman McDermott. The meeting will come to order. Today, we are going to talk about Social Security benefits for refugees. Refugees come to America fleeing injustice or persecution or torture and/or the threat of death. So, these are folks who have arrived here under a variety of circumstances. As the beacon of freedom around the world, we have become a safe haven for many humanitarian immigrants who usually leave their homelands in

haste, sometimes with a little more than the clothes on their back, and some of the refugees are elderly, disabled or both. Now we try to help them with the bare essentials. We supply Supplemental Security Income (SSI) benefits that equals about \$623 a month for an individual, which does not even reach 75 percent of the poverty level. So, we are not bringing them into a lavish lifestyle here. Over the last few years, this modest safety net has gradually been ripped away from an increasing number of disabled and elderly refugees, roughly 12,000 refugees and other humanitarian immigrants have had their SSI terminated over the last few years. The Social Security Administration projects that another 40,000 will lose their benefits over the next 10 years. These cut-offs are the result of a provision in the law that denies refugees SSI once they have been in the United States for 7 years. If a refugee becomes a citizen, he or she may continue to receive SSI but a series of obstacles make their transition to citizenship difficult within the 7 year time limit on SSI. A refugee must first live in the United States for 6 years before they are even eligible to submit an application for citizenship. After 6 years, the refugee must confront a lengthy application which may take several more years. There are other barriers to citizenship beyond long processing times for naturalization applications. For example, a recent cap on the annual number of asylees who may become legal permanent residents continues to force many of these people to wait for more than 7 years before they can file a citizenship application. Additionally, some disabled and elderly refugees encounter difficulties navigating the application process, which includes both an English language and a U.S. civics test, as well as fees reaching as much \$400 per application. Now, to his credit, President Bush acknowledged the unnecessary hardship on refugees caused by the 7 year time limit on SSI and his budget calls for an extension on SSI benefits. The Administration's proposal is less comprehensive than I think is needed but it really is headed in the right direction, and I think the President deserves credit for that. Hopefully, today's hearing will begin to light a fire under the Congress to act on this issue. For my part, I look forward to working with Mr. Weller and other members of the Subcommittee toward a meaningful and immediate solution. I do not intend to see another year go by without the Committee acting on this issue. We surely can find a way to provide basic assistance to elderly and disabled individuals fleeing persecution. I would add that the Iraq war is going to have an impact on this whole issue because we are going to get a whole bunch of people from Iraq into this process. We might as well fix it now because it is going to happen to them. Because if your name is Abdul or Ahmad, getting a citizenship in this country is really difficult.

So, I now yield to the Ranking Member of the Subcommittee, Mr. Weller. Mr. Weller?

Mr. WELLER. Thank you, Mr. Chairman. Mr. Chairman, I appreciate your calling this hearing today. As we have discussed in our prior hearings it is important for our Subcommittee to review our Nation's social policies, especially our social safety net to make sure that it is working as intended. Of course today is one of those opportunities, and I look forward to the testimony from those on our panel.

When Congress reformed welfare in the 1990's, it also acted to focus means tested benefits of citizens on the United States as well as non-citizens who have worked and paid taxes in this country for a number of years. Noteworthy exception of this general rule involved the treatment of refugees who are guaranteed access to means tested benefits like SSI, food stamps, and Medicaid during their early years in this country. This policy recognizes that refugees flee their home countries with few possessions and continued to make available special help as they adjust to life in our country. That is consistent with your Nation's best traditions as a beacon of hope for oppressed people around the world.

Later legislation expanded the special treatment for refugees to guarantee them additional years of benefits for the current total of up to 7 years of benefit checks after they arrive. The premise of this extension was to provide enough time for refugees who wanted to become citizens to do so, maintaining their eligibility for benefit checks along the way. During these 7 years, taxpayers provide each refugee as much as \$50,000 in SSI cash benefits, not counting the value of food, housing, health care, and other benefits they might receive.

One of the issues we will discuss today is whether this current 7 year period of guaranteed eligibility for SSI benefit checks is enough given the reality of the naturalization process today. Right now, there is a class action lawsuit in Federal court in Philadelphia that argues some refugees seeking to become U.S. citizens have lost SSI benefits due to delays in the naturalization process. Addressing that problem may be a productive area for bipartisan adjustments. Such adjustments would ensure people playing by the rules and seeking to become citizens do not lose out simply because the naturalization process takes too long. That would be fair, targeted, consistent with current law, and reasonably affordable in terms of cost. Some might propose additional exceptions, perhaps for those of advanced age. Others maybe would like to go even further and provide for continued SSI eligibility for all refugees for an additional year or 2 years or possibly even longer. There are arguments for and against each of these approaches but two facts are unavoidable. First, the longer and broader the extension, the greater the cost. Second, offsets for additional costs do not exactly grow on trees.

We welcome our guests and look forward to their testimony this morning. Again, thank you, Mr. Chairman, for conducting this hearing.

Chairman McDermott. Thank you very much. If the witnesses will come up and take your place at the table, we would be glad to hear your testimony. We have asked all of you to send in your testimony, and that will be entered in full in the record so you can be assured we will have a chance to read that. But if there are other things you want to say, you now have about 5 minutes to do that. We will begin with K'Keng, who is a Montagnard refugee from North Carolina. I understand Mr. K'Keng you are going to use a translator to do your presentation but welcome.

**STATEMENT OF K'KENG, MONTAGNARD REFUGEE FROM
NORTH CAROLINA**

[Mr. K'Keng testifies through an interpreter.]

Mr. K'KENG. Mr. Chairman and Honorable Members of Congress, I am too old to be able to follow what is part of my statement and what is written because of the time limits so I am going to shift it to the gentleman sitting next to me and go to the rest of the statements.

Chairman MCDERMOTT. All right, go ahead.

Mr. K'KENG. Mr. Chairman and Honorable Members of Congress, today I come before you as a representative of all the elderly Montagnard in North Carolina. We have lost or are losing SSI benefits. My name is K'Keng. I am a Montagnard refugee from the central highlands of Vietnam. I am 75 years old. I lived much of my life as a farmer in my village in the central highlands of Vietnam until 1965 when I, along with thousands of other Montagnards, were recruited and trained by the U.S. Special Forces to fight alongside Americans during the Vietnam War. In 1970, while serving in the Province Reconnaissance Unit, I was hit by a piece of B40 artillery from the North Vietnamese Communists, which entered my right eye and broke my left wrist and hand. Even though my right eye was completely blind, I still returned to serve as janitor for the special military unit until the end of the war in 1975.

In April 1975, when North Vietnamese Communists took over South Vietnam, I was arrested and imprisoned for 6 years as a political prisoner because I had fought along with the Americans. In 1992, I applied from the refugee resettlement program created for political prisoners. My wife, K'Keo, and I were resettled in the United States in 1996 with our young son, K'Hung.

We both found jobs shortly after we arrived in the United States working in a bakery. Three months later, I was laid off because of my disabilities. I then applied for SSI benefits. My wife continued to work until 2001 and also got laid off because of her age and then she applied for SSI also. We both had our green cards but our SSI benefits were cut off in February 2003 because of the 7 year time limit. While it has been expected that 7 years would be enough time for us to obtain our naturalization, it is not. Having a little to no formal education in the central highlands of Vietnam and being much older when you finally have access to education in the United States, learning English in order to take the naturalization exam has been very difficult. Currently, I am enrolled in English classes in the hopes that I will 1 day be proficient enough to take and pass the naturalization exam to become a U.S. citizen.

Since the loss of our SSI benefits, the only source of assistance my wife and I receive is food stamps, the amount is \$280 a month. For this reason, our son, 20 years old, had to leave his school and has to work full time to help us financially. At the young age of 20, our son has to delay his own educational goals to help us provide food, shelter, and other necessities for our family because of no longer receive SSI.

Mr. Chairman, the Montagnard community is very thankful that a handful of us were able to leave the central highlands after the fall of South Vietnam. Today, indigenous Montagnard continue to

be persecuted in their Christian faith in Vietnam. We came with great pain, suffering, and loss but also the promise that we would be treated with dignity we deserve as a friend and in many ways as veterans of the United States. We urge that Congress act to provide immediate relief for those who have lost their SSI benefits as well as a long-term solution to prevent others from losing their main source of support. Again, thank you very much for the privilege to testify today. God bless you and bless America.

[The prepared statement of Mr. K'Keng follows:]

Prepared Statement of K'Keng, Montagnard Refugee from North Carolina

Mr. Chairman and Honorable Members of Congress,

Today, I come before you as a representative of all the elderly Montagnards in North Carolina who have lost or are losing their Social Security Income benefits.

My name is K'Keng, I am a Montagnard refugee from the central highlands of Vietnam. I am 75 years old. I lived much of my life as a farmer in my village in the central highlands of Vietnam until 1965 when I, along with thousands of other Montagnards, were recruited and trained by the U.S. Special Forces to fight alongside American soldiers during the Vietnam War. In 1970, while serving in the Province Reconnaissance Unit (PRU), I was hit by pieces of B40 artillery from the North Vietnamese Communists which injured my right eye and broke my left wrist and hand. After 3 months in the hospital, even though my right eye was completely blind I still returned to serve as a janitor for the special military unit until the end of the war in 1975.

In April of 1975 when North Vietnamese Communists took over South Vietnam I was arrested and imprisoned for 6 years as a political prisoner because I had fought alongside the Americans. In 1981, I was released from prison and I returned to a life of farming in my home village. In 1992 I applied for the Humanitarian Operation (HO) refugee resettlement program created for political prisoners. My wife, K Keo, and I were resettled in the U.S. in 1996 with our young son K'Hung.

We both found jobs shortly after we arrived in the U.S. working in a bakery. Three months later I was laid off of work because of my disabilities. I then applied for SSI benefits. My wife continued to work until 2001 and when she was laid off she also applied for SSI benefits because of her age. We both have our green cards and are permanent legal residents but our SSI benefits were cut in February of 2003 because of the 7-year time limit. While it has been expected that 7 years would be enough time for us to obtain our naturalization, it is not. The majority of Montagnard refugees who were resettled in the U.S. were over 60 years old at the time of resettlement. Having had little to no formal education in the central highlands of Vietnam and being much older when we finally had access to education in the U.S., learning English in order to take the naturalization exam has been very difficult. Currently, I am enrolled in English classes through the assistance of the Montagnard Human Rights Organization, Lutheran Family Services and Catholic Social Services in hopes that I will, one day, be proficient enough to take and pass the naturalization exam to become a U.S. citizen. This is also the hope of many other Montagnard elders in our community who have lost or will soon be losing their SSI.

Since the loss of our SSI benefits, the only source of assistance my wife and I receive is food stamps of \$280 a month. We have no income. For this reason, our 20 year old son has had to leave his full-time enrollment in school to work full-time to help us financially while going to school part-time. At the young age of 20, our son has to delay his own educational goals to help us provide food, shelter and other necessities for our family because we no longer receive SSI.

Mr. Chairman, the Montagnard community is very thankful that a handful of us were able to leave the central highlands after the fall of South Vietnam in 1975 to be resettled in the United States of America, the most wonderful and powerful country in the world. To this day, indigenous Montagnards continue to be persecuted for their Christian faith in Vietnam. We came with great pain, suffering and loss, but also the promise that we would be treated with the dignity we deserved as friends, and in many ways, as veterans of the United States. The Montagnard people are grateful for the kindness, love and sanctuary our community has found here in our new homes in the United States. Montagnards have been here since 1986 and enjoy the real freedom America provides, especially the freedom of religion.

I am here today as a voice for many others in the ethnic Montagnard community who could not be here themselves. I urge that congress act to provide immediate

relief for those who have lost their SSI benefits through an extension of the time limit for elderly and disabled refugees as well as a long term solution to prevent others from losing their main source of support.

Again, thank you so much for the privilege to testify today. God bless you and bless America.

Chairman McDermott. Thank you and thank you for your help to our troops in the Vietnam War as well. Ms. Hill is the senior vice president for social policy at Catholic Charities.

**STATEMENT OF CANDY HILL, J.D., SENIOR VICE PRESIDENT
FOR SOCIAL POLICY, CATHOLIC CHARITIES, U.S.A.**

Ms. HILL. Good afternoon and thank you, Chairman McDermott and Ranking Member Weller for this opportunity to be here to represent Catholic Charities U.S.A. in 171 dioceses and agencies and 1,500 affiliates across the country that serve more than 7.5 million people a year. We also are one of the largest resettlement organizations in the United States and are a partner with the government in providing services to people who have fled their homeland because of terrible persecution, deprivation and even torture before being lawfully admitted to our country.

By definition individuals who qualify for Supplemental Security Income are severely disabled and have little or no income. Very poor and often without shelter, food or relatives, many humanitarian immigrants turn to Catholic Charities and other charitable organizations, homeless shelters and soup kitchens to meet their most basic needs. Without SSI, they are forced to live in emergency shelters for long periods of time, unable to even afford a single room, often with mental health issues and physical disabilities and may have no access to needed health care services such as prescription drugs or long-term therapies. Without SSI benefits, many humanitarian immigrants will sink deeper into poverty and often suffer poor physical and mental health.

Congress originally thought seven years would be enough time for refugees and asylees to become naturalized citizens and thereby preserve their SSI eligibility. However, many refugees and asylees have not been able to make it all the way through this process for a variety of factors, including significant backlogs at Federal immigration offices and new procedures after 9/11.

No one should go without the basic needs to preserve his or her dignity. We have a moral obligation to lift up those who are tied down by the bonds of poverty and in spite of our best efforts to assist these people in playing by the rules, we are falling behind because the rules were created that placed restrictions and limits on public benefits with the assumption that the naturalization system would work in a way that would not penalize those who are most in need. We invited them here to our country because of the conditions in their own country where they were suffering, devoid in many cases of their dignity, leaving behind the only life they know and suffering beyond our comprehension. We offered them hope and a place where they could be treated with dignity and respect. Unfortunately, we have also created obstacles here for them. Try as they might, playing by the rules, not hiding in the shadows, they are being penalized for a system that is broken. Now through

no fault of their own face the loss of their ability to meet their own basic needs and the loss of their human dignity.

We are not here to talk about the merits of the system, we are here to talk about the reality of the people who are legitimately present and the suffering that is occurring because of that system. It is hard for many of us in this room to relate to the experience of the people who are affected by this issue that we bring before you today. In 1999, I had the privilege of working with the Kosovo refugees who came to this country, a learning experience that has changed my life because I fully realized at that point how lucky all of us are that we are born under this flag, that we are able to sleep at night without the thought of intrusion by military forces, to be persecuted for our religious beliefs, and are able to protect our own families. These people have not been able to do that in their own country and have come to our shores for our protection.

We call on this Committee and the Congress to provide the necessary leadership to address this crisis. Your leadership can provide a solution that speaks to the dignity and respect of these vulnerable people. Congress should enact legislation to prevent this vulnerable population from suffering any further hardship. At a minimum, Congress should extend the time limit to provide a more realistic opportunity for individuals to be naturalized. Congress should also broaden the English language waivers in recognition of the difficulties that many elderly persons, who are not proficient in their homeland language, have in the obstacles in learning a new language. Ideally, Congress should eliminate the time limit on SSI benefits for elderly and disabled refugees by de-linking eligibility for public benefits with U.S. citizenship. People should become citizens out of an attachment to the United States, not a forced economic decision to avoid destitution.

Thank you.

[The prepared statement of Ms. Hill follows:]

Prepared Statement of Candy Hill, J.D., Senior Vice President for Social Policy, Catholic Charities, U.S.A.

Mr. Chairman, on behalf of Catholic Charities U.S.A.'s 171 diocesan agencies and more than 1,500 affiliates serving more than 7.4 million people annually, thank you for the opportunity to present testimony regarding Supplemental Security Income (SSI) Assistance for Elderly and Disabled Refugees and other humanitarian immigrants.

Catholic Charities U.S.A. has a continuing interest in the well being of humanitarian immigrants in the United States. Through the Migration and Refugee Services offices of the United States Catholic Conference of Bishops, Catholic Charities agencies have a long history in resettling refugees. Catholic Charities agencies provide refugee resettlement services as well as long-term support to individuals and families that have suffered terrible persecution, deprivation, and even torture before being lawfully admitted to our country. We also make every effort to help them become U.S. citizens. Catholic Charities agencies provide assistance to nearly 70,000 refugees annually, some of whom are elderly or disabled. Our agencies' staff help these individuals navigate the application process, contact medical professionals and assemble medical histories, fill out required forms, and provide encouragement and support by helping them in their transition from their home country to safety and security in our country.

Humanitarian immigrants are individuals the U.S. Department of State have sought, in consultation with the United Nations, to assist with resettlement to this country in order to protect them from further persecution and harm. Refugees and other humanitarian immigrants account for 10 percent or less of the annual legal immigrant admission. Humanitarian immigrants include Russian Jews and other religious minorities who fled the former Soviet Union, Iraqi Kurds fleeing persecu-

tion under the Saddam Hussein regime, Cubans fleeing the Castro regime, Hmong immigrants from the highlands of Laos who served on the side of the U.S. military during the Vietnam war, persecuted minorities in Somalia, Kosovo refugees fleeing Serbians forces and persons from various regions of the former Yugoslavia displaced by the Balkan wars.

Humanitarian immigrants who are of advanced age and/or totally and permanently disabled and who are bereft of personal and material resources need on-going income support as well as social and health services. Many of these individuals arrive in our country after fleeing for their lives arrive without relatives and only the clothes on their backs. Such long-term need is beyond the capacity of religious and charitable organizations. The SSI program is literally a lifeline for such immigrants. The United Nations High Commissioner for Refugees has expressed concern that eliminating essential social services like SSI from refugees after seven years falls short of the durable solution resettlement is intended to offer elderly and disabled individuals.

While we know that we must expand our own commitments to meet humanitarian needs as social service agencies, we also know that faith-based groups and other non-profit sector organizations do not have the resources to replace those functions which are the legitimate responsibility of government and the private sector. Catholic Social Teaching tells us that one of government's central responsibilities is to ensure that no one goes without the basic material necessities of life. The basic necessities are moral rights, and it is ultimately the government that has the responsibility to protect these rights.

The U.S. Government provides monthly Supplemental Security Income payments to refugees and other humanitarian immigrants 65 and over, blind and disabled individuals to help meet basic needs for food, clothing and shelter. In 2007, individual SSI beneficiaries receive monthly payments of up to \$623 and married couples receive up to \$934. In some states this amount is supplemented. In addition, many states link SSI and Medicaid eligibility by allowing SSI recipients to automatically qualify for Medicaid. This coverage is vital for people with health problems and disabilities. However, thousands of refugees, asylees, and legal immigrants are now being left destitute as a result of losing their SSI benefits due to a change in the mid-1990's Welfare Law. According to the Social Security Administration, nearly 12,000 elderly and disabled refugees, and other legal immigrants have already lost their SSI benefits and it is estimated that another 40,000 will lose benefits over the next decade.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) severely reduced the availability of federal programs for immigrants and aliens.¹ Under PRWORA, most immigrants are ineligible to receive federal means-tested benefits for their first five years in the United States and are not eligible for SSI or the Food Stamp Program (FSP) at all. It should be remembered that PRWORA sought to make elderly and disabled refugees ineligible for SSI and food stamps as a budget cutting measure and direct more people into paid employment, even though elderly and disabled refugees by their circumstances are not employable. Humanitarian immigrants, however, were granted a full exception to the restriction on federal means-tested benefits and were allowed to retain their eligibility for SSI and food stamps for a limited amount of time.²

SEC. 402(a)(2)(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES—Paragraph (1) shall not apply to an alien until 5 years after the date [he is granted status as a humanitarian immigrant].³

In the years following the enactment of PRWORA, Congress passed several amendments designed to ease some of the restrictions on SSI and FSP eligibility for certain immigrants. Most notably, at one of the first opportunities to offer technical amendments to PRWORA, Congress extended the time-limited exception to the categorical bar on SSI eligibility from 5 to 7 years for certain humanitarian immigrants.⁴ Section 402(a)(2)(A) was amended to read as follows:

SEC. 402(a)(2)(A) TIME-LIMITED EXCEPTION FOR REFUGEES AND ASYLEES—With respect to the specified Federal programs described in paragraph

¹ Personal Responsibility and Work Opportunity Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105.

² States were given the option to place their own limitations on certain federal programs administered at the State level (TANF, SSBG, and Medicaid) but humanitarian immigrants were also given a time-limited exception from these possible limitations as well. Personal Responsibility and Work Opportunity Act of 1996 § 402(b) (codified as amended at 8 U.S.C. § 1612(b)).

³ Personal Responsibility and Work Opportunity Act of 1996 § 402(a)(2)(A) (codified as amended at 8 U.S.C. § 1612(a)(2)(A)).

⁴ Balanced Budget Act of 1997 § 5302, Pub. L. No. 105-33, 111 Stat. 251 (codified as amended at 8 U.S.C. 1612(a)(2)(A)).

(3), paragraph (1) shall not apply to an alien until 7 years after the date [he is granted status as a humanitarian immigrant.]⁵

Thus, Congress created a system to incentivize naturalization by limiting the time a humanitarian immigrant could receive SSI benefits as a non-citizen. While 7 years may have seemed sufficient to accomplish this task without needlessly penalizing old and disabled humanitarian immigrants, reality tells a different story.

This restrictive time limit has fallen hardest on people who fled persecution or torture in their home countries and subsequently came to the U.S. empty-handed—Jews from the former Soviet Union, Iraqi Kurds, Cubans, Hmong, Kosovo refugees and others—who are now too elderly or disabled to support themselves.

To fully understand the continued significance of these modified restrictions on humanitarian immigrants receiving SSI it is necessary to look at the eligibility requirements for SSI and the naturalization process.

SSI provides a modest cash benefit of \$623 to persons who have *very limited resources* and are *elderly, blind*, or have a *significant disability*. To qualify for SSI, in addition to being poor a person must be:

- Age 65 or older,
- Blind, or
- Unable to engage in substantial gainful activity as a result of a medically determinable physical or mental impairment that will result in death or will last a period of at least 12 consecutive months.⁶

Humanitarian immigrants represent a narrow subset of SSI beneficiaries. Humanitarian immigrants have sought refuge and protection in the United States after fleeing untold horrors of persecution and abuse, face grievous circumstances, and are often in dire need of federal assistance. They may have been forced to leave their family behind and often have no other means of support.

Taken together, *these individuals are poor, elderly or disabled, and have suffered or fled persecution and abuse in their home countries* and Congress chose to exempt them from the generally applicable restrictions on SSI and food stamps.

Unfortunately, some of the elderly and disabled immigrants who are most in need of income support are also least likely to be able to naturalize. The challenging and complicated requirements of the citizenship application process, which are sensible and necessary to make naturalization a serious and significant step for most applicants, are beyond the capacity of humanitarian immigrants who were denied education in their home countries and who are not literate in any language. Achieving sufficient mastery of the English language to pass the test is clearly beyond their potential.

In order to naturalize, an applicant must first become a lawful permanent resident (LPR). Humanitarian immigrants must be fingerprinted, complete the “Application To Register Permanent Residence or Adjust Status” form, complete the “Biographic Information” form, submit “Evidence of Asylee Status” or “Application by Refugee for Grounds of Excludability,” submit evidence of having resided in the United States for one year (including documenting any absences during the period of residence), submit a birth certificate or birth record, submit a “Medical with Vaccination Supplement,” and pay the associated filing and fingerprinting fees.

The large numbers of citizenship applications, combined with other factors (including the requirement for more rigorous background check requirements following the terrorist attacks of September 11, 2001) have resulted in a *multi-year administrative backlog at USCIS*. In July 2006, the USCIS reported a backlog of over 1.1 million naturalization applications.⁷ Of those applications, 140,000 cases were considered under USCIS control. The nearly one million remaining applications included cases considered outside USCIS’ control because the agency was waiting for the Federal Bureau of Investigation (FBI). The FBI has acknowledged that USCIS’

⁵ The amendment contained in The Balanced Budget Act of 1997 actually amended this provision to read somewhat differently, but the Agricultural Research, Extension, and Education Reform Act of 1998 amended the food stamp provisions and resulted in the language of current law. Agricultural Research, Extension, and Education Reform Act of 1998 §503, Pub. L. No. 105-185, 112 Stat. 523, (codified at 8 U.S.C. 1612(a)(2)(A)).

⁶ Additionally, applicants must agree to apply for other cash benefits for which they may be eligible, reside in one of the 50 states, District of Columbia, of Northern Mariana Islands, and be a United States citizen or a qualified alien.

⁷ U.S. Citizenship and Immigration Services News Release, “USCIS Announces Elimination of Naturalization Application Backlog,” <http://www.uscis.gov/files/pressrelease/n400Bklg091506NR.pdf>

name check requests outpace the FBI's available resources for name checks.⁸ Through no fault of the applicant, these administrative delays can cause the naturalization process to take longer than the 7 years envisioned by section 402(a)(2)(A). According to the Migration Policy Institute, the median number of years between legal immigration and naturalization has been eight years for individuals who became U.S. citizens in 2002 through 2005. But the process is likely to take longer for humanitarian immigrants.⁹

Asylees face additional difficulties because of asylee adjustments to LPR status. Like refugees, they must wait for at least one year after being granted asylum before adjusting to LPR status. Prior to May 2005, the number of asylees that could adjust to LPR status each year was capped at 10,000 regardless of the number of individuals that actually had been granted asylum.¹⁰ As a result of the cap and processing delays, a backlog of adjustment applications formed. According to USCIS, as of April 2006 nearly 113,000 asylees were awaiting processing of their applications to adjust to LPR status.¹¹ USCIS estimated that for applications that already have been submitted, the wait for processing could exceed 4 years, though the agency intends to process applications submitted after April 1, 2007 within six months.¹² After having adjusted to LPR status, to apply for citizenship, asylees must have resided continuously in the U.S. with LPR status for at least four years.¹³ This has resulted in a backlog of eligible applicants that extend far beyond the 7 years envisioned by section 402(a)(2)(A). For a typical asylee granted asylum today, the wait to naturalize will be 15 years or more.¹⁴

The road to citizenship is lengthy and difficult for the average immigrant. This process is exacerbated for old and disabled immigrants who have difficulty meeting some of the naturalization eligibility requirements.

An eligible applicant with LPR status can apply for naturalization if they:

- (1) Are 18 yrs or older,
- (2) Have been an LPR for the previous 5 years (unless a member of the Armed Forces or married to a citizen),
- (3) Pass an English language test,
- (4) Pass a U.S. Civics test,
- (5) Are willing to support the Constitution of the U.S. and be willing to take an Oath of Allegiance to the U.S.¹⁵

Humanitarian immigrants are frequently illiterate both in English and in their native language. This severe lack of education often combined with the presence of mental and physical impairments (due to age or disability) present obvious difficulties for them as they seek to naturalize.

In addition, applicants must pay \$400 in fees, and USCIS proposes increasing the fees associated with naturalization to \$660.¹⁶ For an individual relying solely on SSI benefits, the current fees alone amount to nearly two-thirds of one month's income and the proposed fee of \$660 would exceed the monthly maximum benefit for an in-

⁸ Supplemental Declaration of Michael A. Cannon, Section Chief of the National Name Check Program Section at the Federal Bureau of Investigation, filed in *Yakuba v. Chretoff*, No. 1:06-cv-3203-ERK-RLM (Eastern District of New York), August 31, 2006, paragraph 21.

⁹ Jeane Batalova, "Spotlight on Naturalization Trends," Migration Policy Institute, <http://www.migrationinformation.org/USfocus/display.dvm?ID+421#14>

¹⁰ The REAL ID Act of 2005 (P.L. 109-13) eliminated the cap.

¹¹ U.S. Citizenship and Immigration Services, "Asylee or Refugee Seeking Lawful Permanent Resident Status," <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=207796981298d0>

¹² *Ibid.*

¹³ Asylees are required to have had LPR status for five years before applying for naturalization. But there is a special rule that allows them to start counting their LPR status as having begun one year before the date on which their LPR application was approved. Thus, asylees must wait four years from the time their LPR application is approved before applying to naturalize. In addition, the naturalization application may be submitted 90 days before the date on which the asylee will have had LPR status for five years (refugees may also submit their applications 90 days before having been in the United States for five years). American Immigration Lawyers Association, "Some Common Questions about Naturalization," accessed January 16, 2007, <http://www.aila.org/Content/default.aspx?docid=21334>.

¹⁴ Estimates of asylees in this backlog range from 140,000 (see Eduardo Aguirre, Director, U.S. Citizenship and Immigration Services, Prepared Remarks before the Migration Policy Institute, Sept 3, 2003) to 160,000 (see Declaration of Mark A. Rohrs, Supervisory Center Adjudications Officer for the Department of Homeland Security, Citizenship and Immigration Services, Nebraska Service Center, *Vukaj v. Ridge*, No. 03-72676 (E.D.Mich. Feb. 19, 2004)).

¹⁵ Immigration and Nationality Act § 312(a).

¹⁶ Federal Register, February 1, 2007, "Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," Proposed Rule, <http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/E7-1631.pdf>.

dividual. Although partial fee waivers are available at the discretion of USCIS, as a practical matter it is difficult for humanitarian immigrants to apply for fee waivers without the assistance of an aid organization or attorney. Many humanitarian immigrants are not aware that fee waivers are available and the waiver request must include an affidavit, which is difficult to prepare properly without assistance. Also, USCIS has avoided providing a form to request fee waivers, thereby leaving applicants to construct and present evidence of financial need on their own.

Catholic Charities U.S.A. and other organizations partnered extensively with both USCIS and the former INS to develop the extensive regulations and policy guidance designed to ensure compliance with the Rehabilitation Act of 1973.¹⁷ This regime provides applicants that do not meet the criteria for disability waivers an opportunity to meet the naturalization requirements with the aid of *reasonable accommodations*. For example, an applicant unable to take a written test would be permitted to take the test orally. Another example is, if an applicant requiring fingerprints is unable to report to a service center due to a disability, USCIS personnel may arrange alternate means of taking the fingerprints, such as by sending an agent to the applicants residence.

Separate from the modifications required by the Rehabilitation Act, extremely disabled applicants may qualify for *disability-based exceptions*, which are a statutory requirement of the Immigration and Nationality Act.¹⁸ To qualify for such a disability waiver, applicants must have a “medically determinable impairment” that results from “anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical or laboratory diagnostic techniques to have resulted in *functioning so impaired as to render an individual unable to demonstrate an understanding of the English language or U.S. Civics*.¹⁹ These waivers are available only under fairly limited situations.²⁰

Age-Based Exemptions and Exceptions

- (1) An applicant who is age 50 or older may have the English test waived if they have accumulated *20 years as an LPR*. In this case, the U.S. Civics test would be given in the applicant's native language.²¹
- (2) An applicant who is age 55 or older may have the English test waived if they have accumulated *15 years as an LPR*. In this case, the U.S. Civics test would be given in the applicant's native language.²²
- (3) An applicant who is age 65 or older may have the English test waived if they have accumulated *20 years as an LPR*. In this case, they are eligible to take a simplified version of the U.S. Civics test in the applicant's native language.²³

There are no provisions for a complete waiver of the U.S. Civics test requirement based solely on age.

Despite the importance of these accommodations and exceptions for the naturalization applicants that they reach, they are ineffective in assisting those humanitarian immigrants who have lost or are in danger of losing SSI benefits as a result of PRWORA's time-limited exemption.

While the age-based exceptions will help those who have been present in the United States for significant periods of time, more recent humanitarian immigrants have and will lose their SSI benefits long before they are eligible for an age-based waiver. And older immigrants often do not qualify for either reasonable accommodation under the Rehabilitation Act or disability waivers under the INA.

Consider the following examples:

- Efim and Faina Rabinovich entered the U.S. as refugees from the former Soviet Union (Latvia) in August of 1996. Efim has been seriously ill since June 1997

¹⁷ Section 504 of the Rehabilitation Act, Pub. L. No. 93–112, 87 Stat. 355 (codified at 29 U.S.C. 794(d)), requires accommodations for applicants with physical and mental impairments. A *disability* is a medically determinable physical or mental impairment or combination of impairments which has lasted or is expected to last at least 12 months.

¹⁸ Immigration and Nationality Act § 312(b).

¹⁹ 8 C.F.R. 312.1, 312.2.

²⁰ Statutory accommodations are generally only available for the English and U.S. Civics requirements. There is at least one exception to this statement. In 2000, Senator Hatch (R-UT) introduced and Congress passed legislation that authorizes USCIS to waive the requirement to take the oath of allegiance if an individual has a disability or mental impairment that prevents him or her from being able to understand the meaning of the oath or to communicate an understanding of the oath requirement. Pub. L. No. 106–448, 114 Stat. 1939.

²¹ Immigration and Nationality Act § 312(b)(2)(A).

²² Immigration and Nationality Act § 312(b)(2)(B).

²³ Immigration and Nationality Act § 312(b)(3).

and now suffers from advanced Parkinson's disease. Due to his poor health, he is often unable to leave his home for immigration interviews. As a result his fingerprints (which must accompany the adjustment of status application) have repeatedly expired, and the adjudication of his naturalization application has been delayed. These processing delays and the couple's illnesses have made it impossible for them to naturalize within seven years of their arrival in the United States.

As thousands of humanitarian immigrants have lost or will lose their SSI eligibility due to the 7 year time limit provision of the welfare law, many of the organizations that are serving these very vulnerable immigrant populations have encountered immigrants in desperate situations that signify a significant problem:

- A Catholic Charities agency in Des Moines, IA reports the case of a married couple, ages 75 and 70. Both fled to the U.S. from Vietnam and they have been unable to find employment because of their age and physical disabilities. Both receive federal SSI benefits, but neither has been able to naturalize because of an inability to learn English. Both are at risk of losing their SSI benefits, currently their only means of support.
- A 68-year-old Ukrainian immigrant who fled her home country to avoid religious persecution is an SSI recipient in the U.S. She is still two years away from losing her SSI benefits and is studying hard in hopes of being able to learn English well enough to complete the naturalization testing requirements. But because she is in old age, she has had difficulty remembering how to write and speak the new language, even after a lot of time and effort put into studying. There is a good chance that she will be unable to learn English sufficiently well to pass the naturalization test before her SSI benefits expire.
- A 78 year old refugee from Somalia has never been to school in his life. As an SSI recipient, the clock is ticking against him as he perseveres in hope of learning English well enough to pass the naturalization testing requirement before his SSI benefits expire in 2 years. His monthly SSI disability check is his only source of income.
- A 72 year old cancer survivor and his 75 year old diabetic wife, Cuban refugees now residing in Florida, were among the thousands of humanitarian immigrants facing loss of their SSI benefits in 2004. These two were lucky; a social worker helped them to apply for citizenship. But after receiving notice that his and his wife's SSI benefits might be terminated, the 72 year old recounts, "it just about gave me a heart attack—the fear, the worrying."

Elderly immigrants often have difficulty learning a new language due to their age or other impairments. Many have little or no education, learning disabilities, and other circumstances that create insurmountable obstacles for them as they attempt to naturalize. Since these serious impairments are not a result of a diagnosable disorder, many elderly immigrants will not qualify for a disability-based reasonable accommodation to the naturalization process and, as a result, may never naturalize or be eligible for benefits.

By definition, individuals who qualify for Supplemental Security Income are severely disabled and have little to no income. Very poor and often without shelter, food, or relatives, many humanitarian immigrants turn to Catholic Charities' and other charitable organization's homeless shelters and soup kitchens to meet their most basic needs. Without SSI, they are forced to live in emergency shelters for long periods of time, unable even to afford a Single Room Occupancy unit or other low income housing. Individuals who are the most vulnerable—with mental health issues and physical disabilities—may have no access to needed health care services such as prescription drugs or long term therapies. Without SSI benefits many humanitarian immigrants will sink deeper into poverty, and suffer poor physical and mental health.

No one should go without the basic needs to preserve his/her human dignity. We have a moral obligation to lift up those who are tied down by the bonds of poverty. In spite of our best efforts to assist in playing by the rules, we are failing because rules were created that place restrictions and limits on public benefits with the assumption that the naturalization system would work in a way that would not penalize those in need. We invited them here because of the conditions in their own country where they were suffering devoid in many cases of their dignity—leaving behind the only life they know—and suffering beyond our comprehension. We offered them hope—and a place where they could be treated with dignity and respect. We call on the Committee to provide the necessary leadership to address this crisis—your leadership can provide a solution that speaks to the dignity of respect of these vulnerable people.

In the years following the enactment of PRWORA, there have been a number of technical and substantive legislative amendments designed to restore fairness to vulnerable immigrant populations.

Congress should enact legislation to prevent this vulnerable population from suffering further hardship. At a minimum, Congress should extend the time-limit to provide a more realistic opportunity for individuals to naturalize. Congress should also broaden the English language waivers in recognition of the difficulties many elderly persons have obtaining proficiency in a new language. Ideally, Congress should eliminate the time limit on SSI benefits for elderly and disabled refugees by de-linking eligibility for public benefits with U.S. citizenship. People should become citizens out of attachment to the U.S., not a forced, economic decision to avoid destitution. These recommendations are proposed in a document called *A More Perfect Union: A National Citizenship Plan*—a study prepared by the Catholic Legal Immigration Network, Inc. resulting from two years of research and over 100 interviews with immigration and naturalization experts.

Mr. Chairman, I thank you for your time.

Chairman McDERMOTT. Thank you very much. Ms. Thor is the director of the Southeast Asia Resource Action Center. Welcome.

**STATEMENT OF DOUA THOR, EXECUTIVE DIRECTOR,
SOUTHEAST ASIA RESOURCE ACTION CENTER**

Ms. THOR. Good afternoon. Thank you, Mr. Chairman, and Members of Congress for this opportunity. My name is Doua Thor, I serve as the executive director for an organization called the Southeast Asia Resource Action Center. We are a national refugee organization managed primarily by and for Americans with heritage from Cambodia, Laos, and Vietnam. I myself came as a refugee to the United States and the daughter of a Hmong soldier who was recruited by the United States during the Central Intelligence Agency in what is known now as the “Secret War” in Laos.

So, people from the Southeast Asian countries of Cambodia, Laos, and Vietnam constitute the largest group of refugees ever to arrive in the United States and many fell actually victim to the genocide that ensued after the takeover. Desperate families fled by thousands on foot, by boat, or if they were lucky, on the few U.S. planes that returned for them.

The U.S. has historically been a safe haven for many fleeing persecution and war in the homelands. Humanitarian immigrants who are affected by the 7 year SSI eligibility time limit are from the former Soviet Union and Eastern Europe, Russian Jews who fled the former Soviet Union. Other recent groups of humanitarian immigrants include Cubans fleeing the Castro regime and persecuted minorities from Somalia. Many such as the Hmong in Montagnards risked everything that they had to fight bravely and honorably alongside American soldiers in times of war.

For many elderly and disabled refugees and other humanitarian immigrants, SSI is their lifeline. Many arrive having little to no access to formal education and are either unable to obtain employment due to language barriers and disabilities, advanced age or a combination of all of the above. Because of the trauma that many humanitarian immigrants have faced, barriers to employment can also include a wide range of disabilities, such as life-threatening or serious illnesses and mental health issues. For these populations, SSI provides the bare minimum, of which Mr. Chairperson mentioned earlier, no more than \$623 per month for an individual and

\$934 for a couple. The average monthly payment in 2007 was \$466. However, with the 7 year time limit, refugees and other humanitarian immigrants face destitution once they are no longer eligible for SSI.

In order to continue receiving SSI, refugees and humanitarian immigrants must obtain their citizenship with an often unrealistic timeframe of 7 years. It is unrealistic for many because the path of citizenship is lengthy and compete with barriers and bureaucratic roadblocks. Refugees and humanitarian immigrants must reside in the U.S. for at least 1 year before they can be eligible to apply for lawful permit and residency or a green card. After which, they must wait an additional 5 years to be eligible to apply for naturalization. Within those 6 years, a number of obstacles may prolong the process, increase fees, backlogs, processing delays, background checks, fingerprints, and many other issues. The median number of years between legal immigration and naturalization for persons who have become U.S. citizens between 2002 and 2005 has been around 8 years. The path to obtaining citizenship can take much longer and for many refugees and humanitarian immigrants who are eligible and receive SSI, they will need more time.

As one of the steps to obtaining citizenship, individuals must demonstrate the comprehension of the English language and also pass an exam in U.S. history and civics. Many refugees and humanitarian immigrants have little or no form of formal education, which makes learning very difficult. In addition to learning disabilities, it is known that with advanced age, the ability to learn and retain new information becomes less likely and often impossible for many. Because of such barriers, simply obtaining the English capacity to naturalize becomes a goal that is unachievable for a number of most vulnerable and disabled refugees, especially for those who fought on behalf of the United States and have become allies to this country and represent what it means to be an American but may not be able to pass the civics exam.

Increasing application fees also contribute to the delay in naturalization. The current cost of the naturalization application is \$330, which is over 70 percent of the average SSI payments made in January of 2007. Recently, CIS has proposed a fee increase to citizenship change of the application that would bring the cost of naturalization applications up to \$595, well over the average SSI payments made in January 2007. High fees further delay and often prohibit those who receive and depend on modest SSI benefits from attaining citizenship.

I urge Congress to ensure the needs of disabled and elderly refugees are made a priority in the 110th Congress to prevent this vulnerable population from further hardships and setbacks. Congress should enact legislation, as mentioned by Ms. Hill, to dealing SSI eligibility from U.S. citizenship for refugees and humanitarian immigrants. At the very least, Congress should provide a stop-gap measure of extending the 7 year limit on SSI eligibility.

Thank you.

[The prepared statement of Ms. Thor follows:]

**Prepared Statement of Doua Thor, Executive Director,
Southeast Asia Resource Action Center**

Barriers to Citizenship, SSI and the Poverty Impact on Disabled and Elderly Refugee and Humanitarian Immigrants

Good afternoon. First of all, I would like to thank the Chairman for his extensive work with refugee communities and for highlighting this very important issue of the impact of the SSI time limit on elderly and disabled refugees and other humanitarian immigrants. My name is Doua Thor and I currently serve as the Executive Director of the Southeast Asia Resource Action Center, also known as SEARAC. Based in Washington, DC, SEARAC is a national nonprofit refugee organization managed primarily by and for Americans with heritage in Cambodia, Laos and Vietnam.

I was born in Laos, escaped to Thailand, lived in Ban Vinai refugee camp, and came to the United States with my own family fleeing persecution. I am a former refugee and the daughter of a Hmong soldier who was recruited by the United States CIA in what is now known as the "Secret War" in Laos.

People from the Southeast Asian countries of Cambodia, Laos, and Vietnam constitute the largest group of refugees ever to build new lives in the United States. Nearly all Hmong entered the U.S. as refugees or as relatives of refugees at various times after the end of the Vietnam War. The Hmong have a unique history with the United States and began to relocate to this country in 1975, after fighting alongside the U.S. soldiers, rescuing downed American pilots, and gathering intelligence for America's military forces during the Vietnam War. At the end of the "Secret War," the American-supported South Vietnamese government succumbed to the military pressures of their communist neighbors to the north. The Hmong were then targeted for persecution and had to leave our home country for fear of losing their lives. Many fell victim to the genocide that ensued after the takeover. Desperate families fled by the thousands, on foot, by boat, or, if they were lucky, on the few U.S. planes that returned for them.¹

Through the refugee resettlement process I fully understand, first hand, how difficult it is to start over in a new home, living in poverty.

The U.S. has historically been a safe haven for many fleeing persecution and war in their homelands. Most of the humanitarian immigrants who are affected by the seven-year SSI eligibility time limit are from Russia or the former Soviet Union and Eastern Europe, including Russian Jews who fled the former Soviet Union and former Yugoslavs displaced by the Balkan war; other recent groups of humanitarian immigrants include Iraqi Kurds fleeing persecution under the Saddam Hussein regime, Cubans fleeing the Castro regime, and persecuted minorities from Somalia.^{2,3} Many, such as the Hmong and Montagnards, risked everything that they had to fight bravely and honorably alongside American soldiers in times of war.

In the U.S., according to the 2000 Census, Southeast Asians from Cambodia and Laos with disabilities are more likely to live in poverty, than Americans and other Asian Americans in general. Approximately 18 percent of Americans with disabilities live in poverty. However, the rates for Southeast Asians are much higher in comparison; approximately 28 percent of Cambodians, 39 percent of Hmong, 22 percent of Laotians and 18 percent of Vietnamese Americans with disabilities live in poverty.

Disabilities are closely linked with poverty among Southeast Asian Americans. In fact, the 2000 Census found that in 1999, 44 percent of Cambodian households in poverty had disabled householders, as did 48 percent of Hmong, 45 percent of Laotian and 38 percent of Vietnamese households below the poverty level.⁴

In addition, Southeast Asian, elderly individuals who also have disabilities are at higher risk of poverty. For example, in the state of California alone, the disability rates for people aged 65 and over range from 63 percent for Laotians, to 68 percent for Cambodians, and 71 percent for Hmong compared to approximately 42 percent for Californians overall.

¹ Pha Lo, Visiting the Hmong: America's Forgotten Refugees, Pacific News Service.

² Zoe Neuberger, "Loss of SSI Aid is Impoverishing Thousands of Refugees," Center on Budget and Policy Priorities, February 8, 2007.

³ For more information on the national origin of humanitarian immigrants who would be affected by the SSI eligibility limit, see Fremstad, "The Impact on the Seven-Year Limit on Refugees' Eligibility for Supplemental Security Income—Refugees from the Former Soviet Union and Eastern Europe are Most Affected."

⁴ 36 percent of U.S. households overall below the poverty level were found to have disabled householders, as were 30.8 percent of such Asian American households overall, see Southeast Asian American Elders in California: Demographics and Service Priorities Revealed by the 2000 Census, October 2003, <http://www.searac.org/sea-eldersrpt-fin.pdf>

According to the Social Security Administration's 2004 SSI Annual Statistic Report, refugees and humanitarian immigrants account for only 9.7% of all SSI recipients.⁵ It is estimated that 12,000 refugees and other humanitarian immigrants have already lost SSI benefits and another 40,000 will lose benefits over the next decade.⁶ It is unacceptable to force thousands of some the most vulnerable people into destitution, amongst them, those like K'Keng who have risked their lives on behalf of America in the exact same way that American veterans and soldiers have.

For many elderly and disabled refugees and other humanitarian immigrants, Supplemental Security Income (SSI) is their lifeline. Many arrived in the U.S. having had little to no access to formal education and are either unable to obtain employment due to language barriers, disabilities, advanced age or a combination of all the above. Because of the trauma that many humanitarian immigrants have faced, barriers to employment can also include wide ranging disabilities such as life threatening or serious illness and mental health issues. For these populations, SSI provides the bare minimum for many, no more than \$623 per month for an individual and \$934 for a couple, to afford the most basic needs of survival such as food, clothing and shelter. The average monthly payment in January 2007 was \$466.70.⁷ However, with the seven year time limit, refugees and other humanitarian immigrants face destitution once they are no longer eligible for SSI.

In order to continue receiving SSI benefits, refugees and humanitarian immigrants must obtain their citizenship within an often unrealistic timeframe of seven years. It is unrealistic for many because the path to citizenship is lengthy and complete with barriers and bureaucratic road blocks. Refugees and humanitarian immigrants must reside in the U.S. for at least one year before they can be eligible to apply for lawful permanent residency (green card) after which they must wait an additional five years to be eligible to apply for naturalization. Within those six years, a number of obstacles may prolong the process. Increasing fees, backlogs, processing delays, background checks, fingerprinting and preparation for English language proficiency and U.S. history and civics are among barriers to timely naturalization. The median number of years between legal immigration and naturalization for persons who became U.S. citizens between 2002 and 2005 has been eight years.⁸ The path to obtaining citizenship can take much longer for many refugees and humanitarian immigrants who are eligible and receive SSI.

As one of the steps to attaining citizenship, individuals must demonstrate their comprehension of the English language and also pass an exam on U.S. history and civics. While applicants over the age of 55 who have been in the U.S. for over 15 years and those over 50 who have been in the U.S. for over 20 years are eligible to take the exam in their native language and be exempt from the English language requirement, these exemptions are not helpful for disabled or elderly refugees.⁹ Many refugees and humanitarian immigrants have had little or no form of formal education which makes learning very difficult. For some, even the written form of their native language is foreign. In addition to learning disabilities, it is known that with advanced age, the ability to learn and retain new information becomes less likely and often impossible for many. Because of such barriers, simply attaining the English capacity to naturalize becomes a goal that is unachievable for a number of the most vulnerable disabled and elderly refugees.

Increasing application fees also contribute to the delay in naturalization. The current cost of the naturalization application alone is \$330 which is over 70% of the average SSI payments made in January 2007. Recently, USCIS has proposed fee increases to citizenship and change of status applications that would bring the cost of the naturalization application up to \$595—well over the average SSI payments in made January 2007. High fees further delay and often prohibit those who receive and depend on modest SSI benefits from attaining citizenship.

These and other barriers to citizenship not only prohibit many refugees and humanitarian immigrants from becoming fully integrated into American society and civically engaged through citizenship, but they also pose as threats to the loss of SSI eligibility and the risks of falling further into poverty.

⁵ U.S. Social Security Administration, "SSI Annual Statistical Report, 2004," http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2004/sect05.pdf

⁶ Zoe Neuberger, "Loss of SSI Aid is Impoverishing Thousands of Refugees," Center on Budget and Policy Priorities, February 8, 2007.

⁷ U.S. Social Security Administration, SSI Monthly Statistics, January 2007, http://www.ssa.gov/policy/docs/statcomps/ssi_monthly/2007-01/table07.html

⁸ Jeanne Batalova, "Spotlight on Naturalization Trends," Migration Policy Institute, <http://www.migrationinformation.org/USfocus/display.cfm?ID=421#14>, September, 1, 2006.

⁹ Melanie Nezer, "America's Broken Promise: The Dire Consequences of Welfare Reform for Jewish Refugees," Summer 2006

I urge Congress to ensure that the needs of disabled and elderly refugees are made a priority in the 110th Congress to prevent this vulnerable population from further hardship and setbacks. Congress should enact legislation to de-link SSI eligibility from U.S. Citizenship for refugees and humanitarian immigrants. At the very least, Congress should provide a stop-gap measure of extending the seven-year limit on SSI eligibility. Seven years is certainly not sufficient time for thousands who have been affected and thousands more who will be affected by this cut off.

The U.S. has been a leader in providing refuge for people from around the world who, among many unimaginable circumstances, have faced persecution and dislocation because of conflict and war. Many who find refuge in the U.S. have been long-time allies and supporters of this country and as such, have risked their lives and those of their loved ones to be here. It is unimaginable that we would allow our disabled and elderly refugee and humanitarian immigrants to endure the unfair hardships of losing their SSI.

Examples and Stories of Refugees Affected by the Seven Year Limit:

- Bounta Xasiengpat, was 81 years old and was resettled in the U.S. as a refugee in 1996. Because of the seven year time limit on her SSI, her benefits were discontinued in December of 2004. SSI was her only source of income. She had to move in with her daughter and grandson. Bounta was seriously ill and required dialysis treatments three times a week. Since her husband's death a few years ago, she had been very depressed; a feeling only compounded with the loss of her SSI benefits. She felt hopeless and unsure of what to do next. She wanted to become a U.S. citizen and was participating in programming at the Fresno Interdenominational Refugee Ministries in Fresno, California. Bounta passed away early this year.
- An Ethiopian asylee received political asylum in the U.S. in 1999 based on credible fear of persecution if he returned to Ethiopia. When he received asylum in 1999, he was blind and completely insulin dependent and was qualified to receive SSI. His health deteriorated and he ultimately required daily home health care due to the life threatening nature of his illness. He lost his SSI in 2006 because of the seven year limit and subsequently lost his Medicaid as well because of this. Despite his best efforts to obtain citizenship within seven years, his path to obtaining lawful permanent residency and U.S. citizenship were set back by delayed background checks and a national cap for asylees of 10,000 a year (the cap was lifted in 2005) which held up his application for an excess of four years.

Chairman McDermott. Thank you very much. Now Mr. Krikorian, the executive director of the Center for Immigration Studies.

**STATEMENT OF MARK KRIKORIAN, EXECUTIVE DIRECTOR,
CENTER FOR IMMIGRATION STUDIES**

Mr. KRIKORIAN. Thank you, Chairman McDermott and Ranking Member Weller, for the invitation to speak. The 1996 welfare reform bill, as we know, barred most non-citizens from receiving SSI, which is the welfare program for the low-income poor, disabled and elderly. There was clearly a need for reform at that time. Nearly two-thirds of SSI recipients were in fact immigrants at that time. Chinese in particular were abusing the program by transferring all their assets to their children and then claiming poverty. But the point to refugee admissions is that it is a form of charity. We admit people as refugees not because they have family Members or because they have job skills or they have someone to sponsor them but for other reasons and that is why Congress rightly I think extended the eligibility for SSI for refugees for 5 years and then to seven, again in effect as a form of charity to permit people time to naturalize.

In the 10 years since then, the SSI usage rate is roughly the same between immigrants and natives when you look at all immigrants together but immigrant sending countries clearly have much higher rates. Russian immigrant headed families, one out of six are on SSI. One out of eight Iranian families are on SSI. Ten percent of Cubans are on SSI, more than 6 percent of Vietnamese are on SSI. Immigrants who seek to naturalize for whatever reason, either as a strategy to preserve welfare eligibility or genuine commitment to America, are going to find it to be a cumbersome and time-consuming process. There are all requirements that foreigners that need to demonstrate they meet spelled out in the law. There are certain exemptions for people who are elderly or have certain impairments but nonetheless it is a bureaucratic process that has a lot of i's to dot and t's to cross.

As the number of applicants for citizenship have increased over the years, both because of welfare reform causing people to change their decisions and simply because of the ongoing surge in immigration, the processing time for citizenship ballooned and you made a reference to that. In some cities up to 2 years, it took up 2 years between filing and being sworn in. Often this happened because the fingerprints provided by immigrants, which were necessary for the Federal Bureau of Investigation (FBI) background check, expired. In other words, they were only considered valid for a certain period of time. The FBI never got around to it before that time period expired and the immigrants had to go in all over again and provide new sets of fingerprints.

This administration has not had a stellar record on immigration from anybody's perspective I think but they have in fact managed to reduce the processing time for citizenship applications. This backlog issue really is not the issue it was in the past few years. In September, U.S. Citizenship and Immigration Services (CIS), I represent the older CIS, but nonetheless they announced in September that they had eliminated the naturalization backlog. This is what the press release said. I think it was sort of an imaginative definition of eliminated, nonetheless the times have been brought down significantly. The CIS site you can actually check online what the processing date is for naturalization applications, and they are reporting that in all the major cities, they are now processing applications that were submitted about 7 months ago. That is beyond—that is longer than their 6 month target, which is pretty long as it is, but clearly it is not—the backlogs are no longer really an obstacle to naturalization.

It seems to me legitimate to considerately certain targeted limited exemptions, perhaps in fact those who have a naturalization application in the pipeline to provide an extension for them in case backlogs do in fact balloon in the future. The broader suggestions though that some other witnesses have made about de-linking welfare SSI eligibility from citizenship may be sensible but they are not an adjustment. That is a fundamental change to the way Congress has decided to do welfare for immigrants and is not something that we limited to SSI because you are going to have similar stories of difficulties in learning English and what have you coming from non-refugee immigrants as well. So, if we are talking about limited adjustments, the de-linking that has been suggested is real-

ly not appropriate. That is a fundamental change, a sort of paradigm shift to the way Congress does immigration and welfare.

But there is a broader issue I just wanted to touch on at the end and that is that whatever Congress does decide to do in this question of SSI eligibility, we need to understand that immigration is very costly to the taxpayers and that refugee admissions are the most costly form. It is a kind of taxpayer-supported charity. We need prioritize, it seems to me, whom we provide this kind of charity to. If we decide that in a situation of limited government revenues we are going to extend this form of charity to refugees, whom we admit for humanitarian reasons, and rightly so, whether it is sensible to continue these kind of levels of mass immigration of non-refugee, non-humanitarian flows of people.

I would be happy to answer any questions afterward. Thank you.
 [The prepared statement of Mr. Krikorian follows:]

**Prepared Statement of Mark Krikorian, Executive Director,
 Center for Immigration Studies**

Thank you Chairman McDermott and ranking member Weller for the opportunity to speak before this Subcommittee.

In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act which, among other things, barred most non-citizens from receiving Supplemental Security Income (SSI), a welfare program for low-income people who are disabled, blind or aged 65 or older.¹ There was clearly a need for reform of SSI eligibility; immigrants made up nearly two-thirds of elderly SSI recipients, with elderly Chinese, in particular, often using the program after giving their assets to their children and then claiming poverty.²

Refugees are humanitarian immigrants admitted without being sponsored by a family member or employer (who would be responsible for ensuring they did not become a burden to the taxpayer), and were therefore permitted to retain their SSI eligibility for five years after arrival, later extended to seven years. The goal of these time limits was to allow refugees time to naturalize, and thus remain eligible for benefits on the same basis as any other American citizen.

And there was, in fact, a significant uptick in naturalization in response to welfare reform. In the words of one scholar, "There is strong evidence that immigrants sought citizenship as a means of retaining welfare eligibility. Those immigrant groups with the heaviest welfare use rates saw the largest increases in naturalization after welfare reform, further neutralizing its potential impact."³

Heavy refugee use of SSI continues. SSI usage overall is similar between native and immigrant-headed households: in 2005, about 4 percent of native-headed households received welfare benefits through SSI, compared to 4.4 percent of immigrant-headed households (which, because of welfare reform, are almost certainly disproportionately refugees).⁴ This is buttressed by the data by country of origin; though the government surveys used to measure such things do not record the specific immigration status (and so cannot focus specifically on refugees), certain countries are more likely to send refugees than others, and people from those countries have high rates of SSI use. For instance, 15.4 percent of households headed by someone born in Russia, long a major source of refugees, collected SSI in 2005, the highest rate among the top-25 immigrant-sending countries. The same is true for other refugee-sending countries; 12.4 percent of Iranian-born households collect SSI, as to 9.9 percent of Cuban households, and 6.3 percent of Vietnamese households.

The proportion of new refugees who might be eligible for SSI—i.e., those who are elderly or disabled—cannot be determined exactly, but the Office of Immigration

¹ Supplemental Security Income Home Page, <http://www.ssa.gov/notices/supplemental-security-income/index.htm>.

² See, for instance, "From 'Jiu Ji Jin' to 'Fu Li Jin': Some Chinese Immigrants Mistakenly See Welfare as a 'Fringe Benefit,'" by Norman Matloff, *The New Democrat*, November 1994, <http://heather.cs.ucdavis.edu/pub/Immigration/WelfareUse/NewDemo.html>.

³ "The Impact of Welfare Reform on Immigrant Welfare Use," by George J. Borjas, Center for Immigration Studies Report, March 2002, <http://www.cis.org/articles/2002/borjas.htm>.

⁴ "Immigrants at Mid-Decade: A Snapshot of America's Foreign-Born Population in 2005," by Steven A. Camarota, Center for Immigration Studies Backgrounder, December 2005, <http://www.cis.org/articles/2005/back1405.html>.

Statistics reports that the proportion of people over 55 years old among newly admitted refugees was 12.9 percent in 2003, 9.2 percent in 2004, and 8.7 percent in 2005.⁵

Immigrants who seek to naturalize—whether as part of a strategy to preserve their SSI welfare eligibility or out of genuine commitment to America—may find it to be a cumbersome and time-consuming process. Of course, much of the time and effort is justified and cannot be avoided; after all, the law rightly requires foreigners to meet a variety of benchmarks before being considered for admission to the American people through naturalization, including a period of continuous residence in the United States, the ability to read, write, and speak our national language, a knowledge and understanding of America's history and government, good moral character, and attachment to the principles of our Constitution.⁶ Foreigners who are otherwise eligible but who are elderly or have certain physical or mental impairments may be exempted from the language and history/government requirements.

In practical terms, this means filling out more forms, providing fingerprints for security and criminal background checks, being interviewed by an adjudicator, and eventually attending a swearing-in ceremony, where the candidate for citizenship declares that he will “absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen.”

As the number of applicants for citizenship increased (because of welfare reform and because of the ongoing surge in immigration), the processing time for citizenship ballooned, in some cities taking two years from initial filing of paperwork to taking the oath of allegiance; the waits were sometimes so long that the fingerprints provided for FBI background checks would expire and have to be resubmitted.

Although this administration has not had a stellar record on immigration, it has managed to reduce the processing time for citizenship applications; in September 2006, U.S. Citizenship and Immigration Services (USCIS) declared the “elimination” of the naturalization backlog.⁷ Though one senses a “mission accomplished” approach to this issue by USCIS, the wait times and backlogs have indeed come down; the USCIS site shows that naturalization applications are taking about seven months to be processed in most cities, including Seattle, Chicago, San Francisco, Los Angeles, and New York.⁸ This is longer than the six-month target the agency has set for itself (which is itself a pretty long time), but is nowhere near the two years that some cities had been seeing.

The question for this panel would seem to be whether it is necessary to extend the SSI eligibility period so as to prevent elderly and disabled refugees from losing access to SSI welfare benefits. Given the reduction in processing times, combined with the exemptions from certain requirements, there would not appear to be any justification for extending the SSI eligibility period for refugees beyond the current seven years; any elderly or disabled refugee who seeks citizenship, and is not disqualified due to criminal or security concerns, should be able to successfully meet the requirements for citizenship within the seven-year period. In fact, further extending the eligibility period would seem to be a disincentive to refugees to seek citizenship; at the most, it might be justified to extend the eligibility period only for those who have already applied for naturalization, in case in the future, backlogs and waiting times start to increase again.

One final thought on this topic. Whatever Congress decides to do on this specific issue of SSI eligibility for refugees, lawmakers need to keep in mind that our immigration policy is very costly to taxpayers, and the admission of refugees is inevitably the most expensive proposition of all. This is because refugees are admitted precisely because of their desperate circumstances, often having lost all their possessions or been severely traumatized, and perhaps even hailing from profoundly backward societies with no familiarity whatsoever with modern life. And we may well see a surge of refugee admissions over the next several years, with the potential resettlement in the United States of hundreds of thousands of Iraqis.⁹

In the context of limited government resources, and given the fact that a refugee is dramatically most costly to taxpayers than any other kind of immigrant, policy-makers must consider whether the costs of admitting additional refugees should be

⁵ “Refugees and Asylees: 2005,” by Kelly Jefferys, Department of Homeland Security Office of Immigration Statistics, May 2006, http://www.dhs.gov/xlibrary/assets/statistics/publications/Refugee_Asylee_5.pdf.

⁶ See the U.S. Citizenship and Immigration Services (USCIS) page on naturalization, <http://www.uscis.gov/naturalization>.

⁷ <http://www.uscis.gov/files/pressrelease/N400Bklg091506NR.pdf>

⁸ Check processing times here: <https://egov.immigration.gov/cris/jsp/s/ptimes.jsp>.

⁹ See January 16, 2007, Senate Judiciary Committee hearing on this topic, <http://judiciary.senate.gov/hearing.cfm?id=2470>.

balanced by a reduction in the admission of other immigrants. To govern is to choose, and if we choose to permit humanitarian immigration (as I would argue we must, though not necessarily as it is arranged today), then we must face up to the costs and order the rest of our immigration system accordingly.

Chairman McDermott. Thank you. Can the fees be waived?

Ms. Hill. In theory, yes.

Chairman McDermott. In theory. If they have somebody who comes in on SSI and they demand a month's subsistence the Immigration Service requires them to pay?

Ms. Hill. Right, but when I say in theory because there are waivers available in the current process, but when we really look to the actual application of the waiver processes that are available to the immigration official, they are not being used. So when we talk about waivers as a process being available, the answer is yes. Is it being utilized in individual cases, the answer is no.

Chairman McDermott. We will not speculate about why.

Ms. Hill. I am not in a position to.

Chairman McDermott. Let me go to one other question, both of you are dealing with immigrants on a regular basis. What is the fastest that somebody like Mr. K'Keng could get through the process?

Ms. Thor. I think this was mentioned earlier in terms of the inconsistency across the board. There are areas where you can get it much sooner and areas where it is much more difficult. But, for example, according to the ombudsman report to CIS, applications in New York have taken 90 days, for example, for green cards but applications in Greensboro, South Carolina have taken 500 days. So, I feel as though there is a broad spectrum. In our work with community-based organizations, many who do deal on the direct service with refugees and immigrants, on average in their discussions with us have been around anywhere from 6 months to a year if they have a really good advocate who also understands the system and if that CIS has strong relationships with the community, understands the history and those components. If not, there are multiple delays that could take years. It is just very inconsistent across the board, and I think our philosophy is that because it is so inconsistent, it should not be on behalf of the burden of the refugees to bear that piece.

Chairman McDermott. Your experience, Ms. Hill?

Ms. Hill. Similar experience, we are one of the largest resettlement organizations in the country and so it is spotty across the country. We have refugee programs in almost every jurisdiction and there is no cookie cutter process, which I could say to you is working one way or the other, and I think it is great that they report it is 90 days in New York, I think our agencies would probably beg to differ with that.

Chairman McDermott. Mr. Krikorian suggests that maybe extending the eligibility would serve as kind of disincentive to immigrants trying to get in or asylees trying to get in, do you agree with that? Is that what you are finding with people that the only thing that is driving them is the fact that they are about to go off of SSI?

Ms. THOR. I do not think so. You can ask Mr. Krikorian himself actually but even though he has not—he is not on SSI, he is still English as a Second Language (ESL) class that is trying to get his citizenship. I know for many they think it is about just getting the citizenship piece and that is the carrot for them. But on behalf of many Southeast Asian refugees, many who fought on behalf of the United States, I think for them being able to say the oath as a part of their commitment to this country and kind of finalize that step all the way from beginning to the end in terms of being recruited to support the U.S.

Chairman McDERMOTT. There is no way for him to get his citizenship without speaking English and passing the civics test in English?

Ms. THOR. He can apply for the English language waiver but he has a specific time limit and some boundaries of which he has not met yet, for example he has not been in this country long enough for that specific waiver. In addition, when he is interviewed in the process—even if he were eligible for the waiver, it is difficult in the sense that the person interviewing him could ask any series of questions which may or may not—which he may or may not have the ability to answer based upon—even if he studied as hard as he could.

Chairman McDERMOTT. Let me ask you, Mr. K'Keng, through your interpreter. You came to the country and went to work. What kind of work were you doing and what was the reason that you were unable to work further and therefore had to apply for SSI as a way of subsisting?

[Speaking through interpreter.]

Mr. K'KENG. He worked at a bakery, planting flowers and stuff and because of his disability, you can see that his left eye—I mean his right eye has problems. Of course, there is a blueprint label that you have to follow or to read and of course there does not know English and he is not able to follow it and also his age. That is a problem that he is laid off.

Chairman McDERMOTT. Where is he taking his English only classes or is learning his English language?

Mr. K'KENG. Well, actually in North Carolina, the church is also opening classes, which is a Montagnard hiring Americans who are qualified to teach ESL language. So, yes, this American is helping—they are really good help. They are helping the Montagnard. When you are thinking about it, when you are old, it is really, really hard to keep all of that learning into your head.

Chairman McDERMOTT. Do not ask me to learn another language. Mr. Weller can inquire.

Mr. WELLER. Thank you, Mr. Chairman, and first this is a very useful hearing. As one of those who notes that as we have had the debate over the issue of immigration in the last few years, that often those who are left out of this debate are those who are here following the rules. Of course, the people we are discussing today are those who are following the rules. So, I appreciate this hearing and, Mr. K'Keng, we want to honor you and your colleagues who stood with America during the conflict, and we thank you for being here and we honor you for your service.

Mr. Krikorian, in your testimony you noted that processing times have been reduced. However, the ombudsman for the Citizenship and Immigration Services Office at the Department of Homeland Security (DHS) in the annual report for this past year said one of the reasons INS or naturalization backlogs have fallen is because DHS had redefined some of the people previously counted as being in the backlog as now being out of the backlog. It seems kind of artificial.

Mr. KRIKORIAN. To some degree.

Mr. WELLER. Since the size of this backlog has taken a direct effect on refugees who might be applying for citizenship and thus able to maintain their benefits, that raises questions. As you mentioned in your testimony, you talk about reducing the processing times. Does this redefinition of the backlog affect the real processing time or are they just changing the definition so that they can say they are doing it quicker?

Mr. KRIKORIAN. I think it is probably a little bit of both. They are defining as not in the backlog people who are—whose applications have been suspended for security reasons, for instance, and several other criteria. Some of it is imaginative, fancy footwork, bureaucratic footwork but the—

Mr. WELLER. Creative accounting in order to look better?

Mr. KRIKORIAN. Yes, exactly. But some of it clearly has been a reduction in the sort of very long processing times in some of the cities we are seeing. But I am not here to apologize for the administration.

Mr. WELLER. I am not asking you to. What do you consider, just looking at it, you are an expert, is the real processing time for someone here following the rules who is refugee status for going through the citizenship process?

Mr. KRIKORIAN. I could not give you an estimate precisely because of the things the other witnesses have said, that it really is different—in other words, the kinds of people that CIS has defined out of the backlog are not evenly spread everywhere and therefore they are going to be different real backlogs in different cities. I could not give you a real number.

Mr. WELLER. Ms. Thor or Ms. Hill, what is the real processing time? DHS says it is 7 months today, what is the real processing time?

Ms. THOR. I would like to hear from Candy too because I think we have tried in every way possible to get an answer on that and there is not a consistent answer across the board. I think for the communities that we work with, the fact that we cannot get any consistent answer is problematic and speaks to the fact that we do not have a consistent way to define really how people are decreasing these backlog cases and if they really are cases that should be defined and should be connected to this in many ways.

Mr. WELLER. Now someone is going through the refugee process to become a citizen, do they follow exactly the same process as someone else not in the refugee status or are there exceptions that they are given in the process?

Ms. THOR. From my personal opinion, and I am a person actually who was not a citizen and then had to go through the process myself, I think that the CIS is overwhelmed and everyone that

comes through the door, you become another number in a big line of people who have to deal with the situation, and they personally care that my father has fought on behalf of the U.S. They see me as another person that they have to process and get through. In fact, many interviewees that we have gone with to help with in terms of the process, they actually question that process and they say, "Well, why should you get it because you are refugee?" In many ways I think they see that the extra burden should be on top of some of these.

Mr. WELLER. Mr. Krikorian, are there any exceptions or do they follow exactly the same process?

Mr. KRIKORIAN. As far as I know, the same rules. The bureaucratic laws and the law is the same for those because what happens is a refugee or a political asylum recipient, after one year of getting that status can convert to being a regular immigrant, a lawful permanent resident, at which point five more years, then they are really just another immigrant. They are converted to an immigrant after a year so legally it is the same thing.

Mr. WELLER. Then do we provide any special assistance, is there any particular program designed to directly assist refugees move through the—

Mr. KRIKORIAN. Not a government program, no, there may be private ones.

Mr. WELLER. Groups like yours, Ms. Hill?

Ms. HILL. Well, certainly the United States Catholic Conference of Bishops is one of the largest refugee resettlement organizations and so there is money available on the front end, when we are bringing people into the country, but sustaining people over time in that process, the answer is no other than the individual benefits that they might be eligible for under SSI.

To your point about the backlog, if I might just read a quote, this is why in the ombudsman report it says, "The ombudsman shares the IG's concern that these definitional changes in how we are counting the backlog, i.e., hide the true problem and the need for change." To permit accurate assessment of backlog and elimination progress, CIS should provide along side its backlog numbers its re-defined the numbers, the real total numbers without such recalculations. Only then I think could you get a true picture of where actually we stand on this issue.

Mr. WELLER. Thank you. I realize my time has expired. Mr. Chairman, thank you.

Mr. MCDERMOTT. Mr. Stark will inquire.

Mr. STARK. Mr. Krikorian, you were quoted in my hometown newspaper a few years back, I will refresh your memory. "When we admit people lawfully, the idea of applying different welfare rules to them just does not make sense to me. We let in elderly people who are refugees, then you have got to expect they are going to have a hard time fitting into their new society." I presume that means that some years ago you thought it was unfair to cut off the benefits. Today, you seem to be suggesting a different approach. I am wondering why the change of heart? I may have to leave in a couple of minutes, I had one other question for you probably Ms. Hill. Because our district office, which is right next to San Jose, we must see 150 immigration cases a month come through, all kinds

of reasons and concerns, whether it is citizenship or bringing relatives in or green cards. So, we have a fairly active staff who work with the various bureaucracies to help them. I cannot help but think that there has been a—that the recent terrorist paranoia, whether real or presumed, has caused us to just be running through a lot of extra bureaucratic mumbo-jumbo in terms of taking more time with the FBI finding background checks. I have a hunch that is applied less to immigrants from Europe than it is perhaps from Asia and the Pacific Island nations. I wonder if any of you have observed that. I am not sure it is bad or good, maybe there is a real threat to terrorism in that regard but my own feeling it is probably not, but we have all been on heightened alert. But what about your change, is there—have you changed your opinion since 2004?

Mr. KRIKORIAN. No, not really.

Mr. STARK. Okay.

Mr. KRIKORIAN. Because that is why we have special exemptions already, in other words, refugees are already eligible for SSI for 7 years in a way that other immigrants are not. We have exemptions for the elderly who have been here for a long time. Maybe adjusting those specific exemptions would make sense but a broader change is not the de-linking altogether, is a paradigm shift to the way we do immigration and welfare. That is something that seems to me is different from what we are talking about here. If I could talk about the security concerns.

Mr. STARK. But just before you get there, I would suspect that the other witnesses would agree with me, but for cost, and that is but for the cost, and that is not an insignificant part of this, I would have trouble deciding why we should allow people who have been here 5 years, obeyed the law and paid their taxes, they qualify for social security, they qualify for Medicare, how it is that we do not let them qualify for SSI other than cost? There is not a good reason, is there?

Mr. KRIKORIAN. No, because the point is that SSI is for people who do not qualify for Social Security. In other words, it is run through the Social Security Administration for people who do not have a sufficient number of quarters of work. See that is why it is much more—

Mr. STARK. Yes, I understand that but still it is a socially motivated attempt to help people who are legally here and who for whatever reason—are not breaking the law and if it is necessary, paying taxes, and otherwise obeying the system, and I just wonder if there is any other reason besides cost that we should not just make them eligible?

Mr. KRIKORIAN. Well, because the principle I think, and I do not want to speak for the Members because you all voted on this, but the principle to limits on welfare for non-citizens is that they are not yet Members of the community. They are guests that we have admitted and when they buy in, then they become us, at which point they become eligible on the same standards as everyone else. Now if that is a theory that Congress decides they want to change—

Mr. STARK. Yes, but we do not apply that when we have a military draft, if you are here and not a citizen but you are here illegally, you can be drafted.

Mr. KRIKORIAN. If you are here illegally you can be drafted.

Mr. STARK. Okay, then why shouldn't we? As I said, I cannot—

Mr. KRIKORIAN. You need to ask President Clinton and the 1996 Congress that passed and signed the bill, that is my point.

Mr. STARK. I did. I just have trouble. But go back and help me on the—yes, please?

Ms. HILL. Mr. Stark, I think you make a great point about the time limits in your question and about 9/11. I think that in 1996, Congress could not have predicted what was going to happen obviously with 9/11 and so looking backward now, 7 years might have seemed very reasonable to Congress to have people naturalized in this country, but I think we have to admit that things came to a screeching halt with 9/11, and I think that is exactly why you have to take a second look at this.

Mr. STARK. Or the system got bogged down.

Ms. HILL. Yes, and I think that is exactly why you have to take a second look at the decision that was made in 1996, we could not have known that 9/11 was coming and it may have been a reasonable decision back in 1996 but it is not a practical decision today.

Mr. STARK. Now that poor guy in Guantanamo has confessed to every terrorist crime that has ever happened in the world, we do not have to worry about any more, we nailed him for every terrorist act that has ever happened.

Chairman McDermott. I think we will take another turn around here because I have got some more questions, and we do not have very many Members here. So, I would like to ask you I am trying to understand the timeline that Mr. K'Keng or someone like him goes through. He comes into the country and then he has to wait 6 years for his eligibility. He goes first to step of becoming a legal resident.

Mr. KRIKORIAN. Right, so that is 1 year.

Chairman McDermott. One year, so he has to wait 1 year. Then after that, he has to wait—

Mr. KRIKORIAN. Five more years.

Chairman McDermott. Five more years.

Mr. KRIKORIAN. Right.

Chairman McDermott. So, for six years—so now he has got all this time and he is getting himself ready, and he has got all his documents and everything, and he plops it down on the table at the end of the sixth year here, now he has 1 year, and I was trying to think—somebody has got to check the stuff he has handed in, right? They have to check and find out if he really was born there and where his Army records are and all this stuff and that is going to happen in 90 days in New York? Does anybody think that is a reasonable number?

Mr. KRIKORIAN. They are saying 7 months now not 90 days.

Chairman McDermott. Oh, I thought somebody said—

Mr. KRIKORIAN. They are reporting from New York it is 7 months.

Chairman McDermott. Seven months?

Mr. KRIKORIAN. Yes.

Chairman MCDERMOTT. So, is that a reasonable length, Ms. Hill?

Ms. HILL. Well, I think one of the things I would say to you is that he could have everything, including passing his civics test and learning English, and get to the point where he is ready for the last step, which is the FBI clearance, right before being given the oath, and what we know about that process is it is a one to 2 year process before you can actually be sworn in as a citizen. So, when you talk about 1 year and 5 years, that 6 years, then he is going to get ready to be a citizen by taking civics class and he is learning English, he can do all of that and he can get to the door of the FBI clearance. If you read the material about how they do the clearances, if there is an "i" not dotted or a letter off or whatever, that process can cause him to have to go back through it a number of times and that could take one to 2 years before he has done everything right, he has done it in the right process, and yet he is still not sworn in as a citizen.

Chairman MCDERMOTT. I have trouble also when I am listening to this, I watch CSI on television and they have these data banks of fingerprints, and they put a fingerprint on there and it flips around and suddenly we know who it is. How does a fingerprint wear out and have to be re-done by an immigrant? What is the explanation for what that is all about, does anybody know?

Mr. KRIKORIAN. Well, it does not wear out, there are administrative guidelines for how long—in other words, the maximum amount of time.

Chairman MCDERMOTT. Fingerprints do not change.

Mr. KRIKORIAN. I do not know the rationale behind that, I think that is a FBI benchmark. Maybe one of the other witnesses know, I do not know why.

Ms. THOR. Mr. Chairman?

Chairman MCDERMOTT. Yes.

Ms. THOR. Actually, I am not going to respond to the fingerprint question because I think none of us are probably qualified to answer that but definitely in terms of Southeast Asians, for example, many people came with the same exact last names. So, for example, for the Hmong who supported the U.S., there are only 15 clans in this country and 200,000 people all with the same last name. So, for those and for Mr. Stark, who is from San Jose, the Vietnamese, what percentage of them have the same last name. Then for our communities on top of it, there are only a few additional names that—the first names are similar too. My name is also a male name in our community, so we would want the U.S. to do a thorough background check, correct, I think that would be our appropriate for our communities and for this country. We should expect that it would take longer because of the complexities of the communities that come into this country.

Chairman MCDERMOTT. Okay. Yes?

Mr. KRIKORIAN. There are sort of two issues it seems to me that we are talking about here, one is this issue, which is the bureaucratic kind of the plumbing issue, and that seems to me is something that can be dealt with by saying that those who have an application in the pipeline retain their eligibility. But the other

issue is the one that Mr. K'Keng was talking about, the inability to actually meet the criteria. In other words, there are two different issues there, the first one, the plumbing issue is much easier to address.

Chairman MCDERMOTT. Somebody who is in, you could just extend it until they are done.

Mr. KRIKORIAN. Conceivably, yes.

Chairman MCDERMOTT. But then that would leave all these other people out who somehow get—my naturalization press release here says, “Of this gross backlog of 1.1 million,” 140,000 cases are considered backlogged in the Immigration Service so they have knocked 900,000 people out without—I do not know quite how they did that.

Mr. KRIKORIAN. No, but my suggestion is that is still a kind of an administrative plumbing issue, in other words, if it is the FBI that is the problem, their applications are still live and in CIS' hands. The other question is elderly people who cannot or who claim they cannot learn English, that seems to me is a different obstacle than the administrative obstacle.

Chairman MCDERMOTT. Mr. Weller, you want to ask?

Mr. WELLER. Sure. Thank you, Mr. Chairman, and again this is a useful hearing, and I appreciate the time we are investing here today. It is my understanding there are about 30 states that provide additional benefits beyond SSI which refugees can benefit from. My state of Illinois is one of them. I was wondering, Ms. Hill, can you highlight on that and tell what is available in addition to the SSI and are there time limitations on this available at the state programs in Illinois, for example, my home state or Washington state, which is one of them?

Ms. HILL. Well, let me start with the last part of the question to say I would be happy to look into the time limits in each of those individual states, and I cannot answer—I am not prepared to answer that question. I am from Michigan so I can talk a little bit about Michigan as well. I think that the states have recognized, even with SSI benefits when you look at \$623 that is the maximum an individual can receive and you think about that here in this jurisdiction of Virginia, Baltimore and D.C. and the cost of living here, there are individual jurisdictions like yours in Illinois that have realized that people cannot even meet their most basic needs, that they are living way below the poverty level. Certainly at our agency, even when they are receiving SSI benefits, they are many times coming to us for assistance for food, to pay their rent. It is a very low existence for them but it does provide them some dignity and opportunity to pay but I think the states have realized that it is not enough. Certainly now if it is tied to, if your benefit in Illinois is tied to the receipt of SSI at the Federal level, when they lose their eligibility at the Federal level, I would presume they are going to lose the eligibility in the state.

Mr. WELLER. Ms. Thor?

Ms. THOR. I think from our experience with our community-based Members we do feel like people on the state level realize that this is a very vulnerable population that needs that kind of support and in actuality the states actually support it very minimally and often is the first program that they look to cut in terms of looking

at programs when they are looking—the states also feel overburdened in terms of trying to think through how to be supportive and so I think that for California, for example, it has definitely been our population that has been at risk of losing this support. Many of them already, like you said, do not have the Federal support and so they are really struggling maybe with just food stamps and those components.

Mr. WELLER. Mr. Krikorian?

Mr. KRIKORIAN. The answer is I do not know. I am not familiar with the states specifically.

Mr. WELLER. Okay. I guess the question is before this Subcommittee of whether or not we extend a longer period of time, and I would just like to hear from each of you. Mr. Krikorian, in your testimony you felt there is no need for an extension, that is consistent with our view for a longer period of time?

Mr. KRIKORIAN. Yes, I think that at the most those who have submitted applications, have already begun the process, if it is because of the FBI or CIS' problems, that it is appropriate they continue to be eligible. But the point to the time period of extended eligibility, in other words, they already—refugees already have 7 years longer than other immigrants to be eligible for SSI. No, I think it is hard to justify it. If we do, it seems to me to be part of a broader reassessment of whether all immigrants should be made more eligible.

Mr. WELLER. So, as I understand it, if they are in the midst of their process and the process has not been completed, you would support an extension of SSI for those individuals that are—

Mr. KRIKORIAN. That have undertaken the process—

Mr. WELLER [continuing]. That have undertaken the process.

Mr. KRIKORIAN [continuing]. Of applying for citizenship, yes, I think that would make sense.

Mr. KRIKORIAN. Ms. Thor, do you agree with that position?

Ms. THOR. I actually agree that we need a longer fix and a much broader fix for this. Hence, I think both Ms. Hill and I did recommend de-linking in the sense that this country has a commitment to the people that we bring in legally and refugees who supported us as allies. I do not think it is a shift in our philosophy to support those who supported us abroad as well as those who have come into this country that we have brought in legally. I feel like there is this idea that when people think of us doing a charitable act, that there is no support from the other side and actually those communities have not given anything in return.

Mr. WELLER. So, if they are not applying to be a U.S. citizen, if they are not pursuing U.S. citizenship, you believe they should continue to get these SSI benefits for a longer period of time, that is your position?

Ms. THOR. We support an extension as well as a longer fix, especially for those like Mr. K'Keng who may not be able to pass his exam but are here legally because of his support of the U.S.

Mr. WELLER. Ms. Hill, are you consistent with Ms. Thor?

Ms. HILL. Yes, and I would add a couple of other things. I think we need to be careful about mixing the term "refugee" and "immigrant." Refugees are here under a completely different status, and I would echo they were invited in by this country and they came

because of persecution, many times for helping our troops abroad, and I think that CIS has looked at this as a special classification, and we need to not mix the two. So, I think that is an apples and oranges conversation. Immigrants come a different way into this country so I would caution the Committee not to mix the two.

I would also say to you that in the refugee population that we deal with, again people do not realize the atrocities these people have experienced, and I do not think it is a reluctance to becoming a U.S. citizen, they are under extreme pressure to become a citizen. So before coming here today, I talked with some of our folks who work at clinics and they told me a story about a woman who is reaching the end of her SSI benefits and she is 75 years old. She was coming to see one of her workers at Catholic Charities and she suffered a stroke in the parking lot, and she is very near the end and they are under a lot of stress to become a citizen. I think that is why I would say de-linking it.

Mr. WELLER. May I ask why would they not want to become a citizen?

Ms. HILL. I do not think that we have evidence that they do not want to become a citizen. I think the idea is just de-linking—in order to get food, water and shelter after seven years in this country, turning this around, you have to become a citizen. So I think that is the wrong approach. I do not think we have ever been asked are these people willing to become citizens. Anybody that would lay down their life alongside of our troops in their own country and be persecuted by their own government, I do not know how as a country we can question their allegiance to this country.

Mr. WELLER. Ms. Thor, why would someone not want to become a citizen if they are here as a refugee?

Ms. THOR. I have personally not met anyone who would not want to become a citizen. I actually feel very strongly that de-linking would give people the opportunity to really learn English well and really be able to engage in the way that they want to and really embrace the fact that becoming a citizen is about more than just passing a civics exam.

Mr. WELLER. Mr. K'Keng, the people of his community that are here under refugee status, do they all wish to become U.S. citizens?

Mr. K'KENG. [Through interpreter] Yes, everybody is anxious to become a U.S. citizen within their seven month—or 7 years in the United States.

Mr. WELLER. Are there any in the community who would choose not to or feel they should not—that they would not want to become a U.S. citizen?

Mr. K'KENG. No, no.

Mr. WELLER. Thank you. Thank you, Mr. Chairman.

Chairman MCDERMOTT. Thank you. Mr. Meek has something to enter into the record, and I would like to enter something as well. I ask unanimous consent to enter into the record an article that was in the Seattle Times today called, "Citizen Application Backlog Holds Up Disability Benefits," and it talks about these issues. I think that this is an issue we will come back to and see if we cannot find a way. I could not help thinking as I was walking down the hallway coming here the Chinese aphorism that says, "Beware of saving a man's life because you are responsible for him

forever." When we take people in, I think we have accepted that responsibility and I think that we in this Committee will try and deal with that.

[The information follows:]

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Citizenship application backlog holding up disability benefits

By Lornet Turnbull
Seattle Times staff reporter

Adil Rikabi began receiving Supplemental Security Income (SSI) benefits shortly after arriving in the United States as a refugee from Iraq in 1998, an injured right leg the result of gunshot wounds he suffered during that country's decade-long war with Iran.

The father of four had hoped to find work in his new country. But Rikabi, 45, suffers a physical imbalance — his right leg, two centimeters shorter than his left, causes him to collapse if he tries to stand too long.

In 2004, when he was eligible, he applied to become a U.S. citizen, a status he believed would open doors to more and different kinds of jobs and, if not, allow him to continue receiving the \$623 a month his family depended on.

But three years later, Rikabi is still waiting — among hundreds of thousands of immigrants throughout the country whose citizenship applications are held up by FBI security checks, bogged down in a backlog that could take years to clear up.

Most have otherwise met all the requirements for citizenship but have yet to be cleared for swearing in. Among them are disabled or elderly refugees like Rikabi, who, because of the delay, have lost their SSI benefits.

The delays most often affect applicants with common names or names outside the Roman alphabet.

U.S. Rep. Jim McDermott, D-Wash., has scheduled a hearing today to explore a fix that might be fair.

"Those who come to our country as refugees are coming from really awful situations, sometimes with nothing more than the clothes on their backs," McDermott said. "We take them in with the promise of the American Dream and then say to them, 'We're not going to help you, do it yourself.'"

The benefits Rikabi had been receiving are available for the most part only to immigrants who come



MARK HARRISON / THE SEATTLE TIMES
Adil Rikabi, center, his wife, Wafaa, right, and their four children get by on government cash assistance, food stamps and the kindness of strangers.



MARK HARRISON / THE SEATTLE TIMES
The Rikabi family watches Iraqi television in its Everett living room. From left are Zainab, 11, Amir, 11, Adil, Hanan, 7, and Wafaa, 17.

to the U.S. as refugees and then only in their first seven years here.

For the benefits to continue beyond that, recipients must become citizens, a process that for most immigrants can't begin until after they have lived in the U.S. at least five years.

The SSI cuts have hit hard in Washington state, where 340 disabled or elderly refugees already have lost benefits. Only Florida, California and New York have higher numbers.

Rikabi, who was cut from SSI last year, is among 15 Puget Sound-area immigrants who last year sued the government over the delay. He and two others — all of them Middle Eastern — are still waiting for their names to be cleared so that they can be sworn in as citizens.

"I understand about security and the caution after Sept. 11," he said through an interpreter. "But a name check taking two years in a country this advanced doesn't seem right. I've lost my excitement for becoming a citizen."

The delays are rooted in myriad factors including increases in citizenship applications and lengthy background checks put in place after the Sept. 11 terrorist attacks.

U.S. Citizenship and Immigration Services (CIS) asked the FBI to add name checks to the fingerprint and background work it was already doing on citizenship applicants.

The FBI said CIS requests have outpaced its available resources.

Bob Gibbs, a Seattle immigration attorney, said that even after the FBI clears someone's name, the process might get bogged down at CIS.

"It has turned into bureaucratic finger-pointing between the agencies," he said. "Name check becomes the excuse du jour for not getting the thing done."

About 700,000 immigrants were naturalized last year. Ninety-nine percent go through without a hitch, CIS spokeswoman Sharon Rummery said.

Still, federal-court dockets from Philadelphia to Seattle are clogged with lawsuits from people trapped by delays — immigrants who need citizenship so they can bring a wife or children to the U.S. or secure the ease of travel that comes with having a U.S. passport.

Other, like the Rikabis, simply want to keep the benefits they depend on to survive.

With four children between the ages of 8 and 17, the family survives on \$840 in monthly cash assistance from the government, \$700 of which goes to pay the rent on their Everett home.

They receive \$600 a month in food stamps and depend on the kindness of strangers to help make ends meet.

Rikabi said the SSI money that was cut last year went a long way in helping to buy gas for the car and an occasional trip to Chuck E. Cheese's on a child's birthday.

Many places won't hire him because of his disability, he said. His wife struggles with depression and doesn't work. Neither of them speaks English very well.

"I talk to my family at home, and they don't believe me when I tell them about the delay," he said. "They think I must have committed some crime, when the truth is I've never even had a traffic ticket."

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Mr. WELLER. Mr. Chairman?
Chairman McDermott. Yes?

Mr. WELLER. I would like to ask unanimous consent to include pages eight and nine of the ombudsman for the Citizenship and Immigration Services, their annual report as part of the record as well with my comments.

Chairman McDermott. Without objection.
 [The information follows:]

USCIS should complete cases as rapidly as possible while maintaining the system's integrity. However, USCIS' definition of backlog results in the agency falling short of this goal. In its June 16, 2004 Backlog Elimination Plan (BEP), at p. 4, USCIS described its backlog calculation as follows:¹⁶

The new definition in [USCIS' Backlog Elimination Plan] quantifies the backlog by basing the figure on the number of receipts during the previous number of months that corresponds with target cycle time (usually six) and the current pending count for a given application type. This calculated amount can then be used to assess and determine concrete production targets for backlogged application types and the resources necessary to meet those targets. Therefore, backlog is defined as the difference between pending and receipts for the number of months of target cycle time. (Backlog = Pending – Last Six Months' receipts). This new definition of backlog better reflects the idea that as long as USCIS is processing its receipts within the designated target cycle time, there is no backlog for those applications as the pending count only reflects cases within [USCIS] target cycle time.

The following month, in July 2004, USCIS reported 1.5 million backlogged cases, which was an apparent reduction from the 3.5 million backlogged cases in March 2003. However, the agency also reclassified 1.1 million of the 2 million cases eliminated, as described below:¹⁷

During July, USCIS distinguished in its calculation of "backlog" those cases that were ripe for adjudication, where a benefit was immediately available through the approval of an application or petition, and those that were not ripe, where even if the application or petition were approved today, a benefit could not be conferred for months or years to come. [Unripe cases] were excluded from the number of cases in the backlog but remain in the pending.¹⁸

The DHS Inspector General (IG) noted that:

Such reclassifications, as well as the strategy of relying upon temporary employees, may benefit USCIS in the short-term. However, they will not resolve the long-standing processing and IT problems that contributed to the backlog in the first place. Until

¹⁶ USCIS publishes its backlog elimination plan on the agency's website <http://www.uscis.gov/graphics/bohnic/repsstudies/backlog.htm>.

¹⁷ See DHS Office of the Inspector General (IG) Report, "USCIS Faces Challenges in Modernizing Information Technology," OIG-05-41 (Sept. 2005) at 28; http://www.dhs.gov/interweb/assetlibrary/OIG_05-41_Sep05.pdf.

¹⁸ USCIS Backlog Elimination Plan (BEP), 3rd Quarter FY 04 Update (Nov. 5, 2005), at 4.

these problems are addressed, USCIS will not be able to apply its resources to meet mission and customer needs effectively.¹⁹

USCIS' most recent BEP, 4th quarter update for FY 05 dated April 7, 2006, at p. 1, again redefined the backlog:

USCIS removes from the calculated backlog total those pending applications that it is unable to complete due to statutory caps or other bars and those cases where a benefit is not immediately available to the applicant or beneficiary (such as "non-ripe" Form I-130, Relative Alien Petitions where a required visa number is not available) Our initial sense was to immediately factor all these cases into the backlog, increasing the backlog in June by 174,000. After further evaluation, USCIS has modified this conclusion. The number of applications freed for processing is so large that, combined with a 6 month production cycle, USCIS could not complete these cases in this timeframe without significantly affecting production and processing time for other products.

After the redefinition, the backlog supposedly declined from 1.08 million cases to 914,864 cases at the end of FY 05. Yet, individuals whose cases were factored out of the backlog still awaited adjudication of their applications and petitions.

USCIS clearly signaled its intention to continue using such periodic backlog redefinitions in FY 06:

Over [FY 06] USCIS will continue to quantify those cases but will remove from the calculated backlog work it cannot complete because of factors outside its control, such as cases awaiting customer responses to requests for information, cases in suspense to afford customers another opportunity to pass the naturalization test, cases awaiting an FBI name check or other outside agency action, or where USCIS has determined a naturalization case is approvable and the case remains pending only for the customer to take the oath.²⁰

The Ombudsman shares the IG's concern that these definitional changes hide the true problem and need for change. To permit accurate assessment of backlog elimination progress, USCIS should provide alongside its "redefined backlog numbers" the total numbers without such recalculations. Only when USCIS provides such similarly defined data can true progress be evaluated. Although redefinition may provide a new and different measure of backlog elimination progress, and be partly the result of advice to separate out delayed cases beyond

¹⁹ See DHS IG Report "USCIS Faces Challenges in Modernizing Information Technology," at 28.

²⁰ See USCIS BEP, 4th quarter FY 05 (Apr. 7, 2006), at 5.

Mr. WELLER. Thank you, Mr. Chairman.

Chairman McDERMOTT. Thank you very much. Thank you all for coming and testifying. It helps us to actually see real people like Mr. K'Keng and people who are working on the firing line trying to deal with all the problems. Thank you.

[Whereupon, at 1:35 p.m., the hearing was adjourned.]

[Questions submitted by the Members to the Witnesses follow:]

Questions submitted by Mr. Meek to Ms. Hill

Question: Do you believe that the current conditioning on eligibility for SSI acts—in a sense—as an incentive for asylees to leave the safety of the U.S. and return to their home countries—even though they potentially face imminent persecution?

Answer: [Response pending.]

Question: To allow such asylees to stay in the U.S. but deny them assistance when they are too infirm or disabled to work—what message does this send to other potential asylees?

And on a greater scale, at a time when the United States' human rights reputation is at issue around the globe, what message does this send to the international community?

Answer: [Response pending.]

Question: Is it a fair assertion that not all asylees wish to become U.S. citizens but come here out of need?

That being said, in your opinion, doesn't linking SSI eligibility for asylees to U.S. citizenship create the wrong incentive to become a U.S. Citizen—economic hardship versus citizenship?

Would not encouraging citizenship from individual desire and not the threat of privation be in the best interest of the United States and our melting pot culture?

Answer: [Response pending.]

[Submissions for the Record follow:]

Statement of Hebrew Immigrant Aid Society

Through its mission of rescue, reunion, and resettlement, HIAS has provided life-saving services to world Jewry for more than 125 years. As an expression of Jewish tradition and values, HIAS also responds to the needs of other migrants who are threatened and oppressed.

Since its founding in 1881 by Jewish immigrants who found sanctuary in the United States after fleeing persecution in Europe, HIAS has assisted more than four and a half million people in their quest for freedom, helping them start new lives in the United States, Israel, Canada, Latin America, Australia, New Zealand and other countries around the world. As the oldest international migration and refugee resettlement agency in the United States, HIAS has played a key role in the rescue and relocation of Jewish survivors of the Holocaust, Jews from Arab and communist countries, more than 380,000 Jewish refugees from Iran and the former Soviet Union, and refugees of all faiths fleeing persecution in Vietnam, Bosnia, Kosovo, Sudan, and other dangerous places. HIAS works with an extensive network of local Jewish agencies across the country to resettle refugees from the Former Soviet Union, Iran, and other areas of conflict around the world.

Jews from the former Soviet Union are more affected by the limits on SSI than any other previous refugee group because the large wave of Russian Jewish emigration to the U.S. in the 1990s was demographically the oldest in U.S. history. This wave of Russian Jewish emigration happened to coincide with the 1996 adoption in the welfare reform law that conditioned the receipt of Supplemental Security Income ("SSI") benefits for the disabled, blind and elderly on achieving citizenship within the first seven years of entry into the country after August 22, 1996.

In response to this growing crisis, over the past decade HIAS has advocated that Congress repeal the seven year time-limit entirely, thereby de-linking naturalization from SSI eligibility for humanitarian immigrants. Basing eligibility for assistance on citizenship debases citizenship and puts many elderly and disabled refugees in financial dire straits, leaving them with no safety net. We encourage immigrants to become citizens in order to participate fully in the civic life of the country, not because the alternative is the serious economic hardship that may result if benefits are lost or unavailable. The United States admits refugees with the promise of security and protection against the dangerous situations they encounter in their home countries. Yet for many elderly refugees, we are breaking that promise after seven years simply because they cannot learn English or get through the citizenship process quickly enough. Without SSI and facing extreme destitution, refugees are even

less likely to make it through the naturalization process given their overriding concerns of how they will afford food and housing. Only by eliminating the time limit will the United States fulfill its promise to this most vulnerable and deserving population.

SSI Benefits and Refugees

Since 1974, the U.S. government has provided low-income elderly, blind, and disabled individuals with financial support through the SSI program. It was not until 1996, when Congress passed and President Clinton signed sweeping welfare and immigration legislation, that lawful immigration status served to restrict the access of low-income disabled or elderly individuals to SSI and other welfare benefits. Though some restorations passed in subsequent years, SSI remains the only federal means tested public benefit program that cuts off refugees after seven years unless they become citizens.

SSI provides monthly income support to meet basic needs for food, clothing, and shelter to low income individuals who are 65 or over, disabled, or blind. In most states, beneficiaries also qualify for Medicaid to pay for hospital stays, doctor bills, prescription drugs, and other health costs. Currently, individual SSI beneficiaries receive monthly payments of \$623 and married couples receive \$934.

In contrast to Social Security benefits, SSI eligibility is not based on prior work history. It is available only to those who both meet a poverty means test and are completely unable to work because of age or disability. A person is defined in Federal law as "disabled" for purposes of SSI benefits if he or she is "unable to engage in any substantial gainful employment as a result of a medically determinable impairment which can be expected to result in death or has lasted, or can be expected to last, for a continuous period of at least 12 months."

When Congress passed the 1996 legislation terminating access to public welfare benefits for non-citizens, it clearly considered that the United States had a continuing obligation to assist certain classes of non-citizens. Reflected in the 1996 welfare reform legislation is the idea that some non-citizens—including humanitarian immigrants who flee persecution and are offered sanctuary in the U.S., or who serve in the U.S. military, or who participate in the U.S. work force for a significant length of time—merit special consideration when it comes to public support such as through receipt of SSI benefits.

The obligation of insuring equal treatment of non-citizen refugees by providing SSI income support benefits to refugees and asylees in the 1996 welfare legislation is reflected in the international treaty the United States has adopted. This treaty provides under the article entitled "Public relief": "The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals." Article 23 of the 1954 United Nations Convention Relating to the Status of Refugees ("Convention"). Under the 1967 United Nations Protocol Relating to the Status of Refugees, 19 U.S.T. 6223, 606 U.N.T.S. 267, a treaty entered into force for the United States on November 1, 1968 (see Treaties in Force 2006, p. 507), the Parties undertook to apply articles 2 through 24 of the 1954 Convention.

Refugees and other humanitarian immigrants comprise 10 percent or less of the annual legal immigrant admissions. Included in the groups of refugees and related humanitarian immigrants are Russian Jews and other religious minorities who fled the Former Soviet Union, Iraqi Kurds fleeing persecution under the Saddam Hussein regime, Cubans fleeing the Castro regime, Hmong immigrants from the highlands of Laos who served on the side of the U.S. military during the Vietnam war, persecuted minorities in Somalia, and persons from various regions of the former Yugoslavia displaced by the Balkan wars.

Refugees and asylees arrive in the United States with considerably greater challenges to self-sufficiency than other classes of immigrants. The U.S. government grants refugees and asylees permission to reside in the U.S. based solely on the determination that they have been the victims of persecution or have a well-founded fear of persecution in their native countries due to their race, religion, nationality, political opinion, or social group.

Many refugees arrive with no financial resources, no documentation of professional qualifications or past achievements, little social support, and physical or mental health problems—often severe—related to the trauma they have suffered.

The law recognizes that refugees and asylees often arrive alone and have no family members in the U.S. Unlike other immigrants, while refugees and asylees are eligible to receive time-limited support from the government in partnership with refugee resettlement agencies, they are not required to have a permanent sponsor (such as a family member) who is legally obligated to assist them if they cannot provide for their own support.

The Federal Government has acknowledged the unique challenges faced by refugees and asylees by establishing a comprehensive system of assistance for their initial resettlement into the United States. Because the goal of the refugee program is early economic self-sufficiency, these benefits are generally available for a limited amount of time after the refugee's arrival, and are provided for the purpose of helping a refugee to become acclimated to life in the U.S.

The Federal Government's involvement in refugee resettlement efforts began in the period following World War II. Over the years, Congress and private organizations have funded a variety of programs to help newly arriving refugees adjust to life in the United States. In 1980, the Refugee Act (Refugee Act of 1980, Pub. L. No. 96-212) formalized the national refugee assistance system, marshalling the resources and expertise of public and private agencies into an ongoing program now commonly known as the Refugee Resettlement Program.

The Refugee Resettlement Program demonstrates a unique and profound commitment to this group of non-citizens by Congress, the Federal Government, and private agencies and individuals. It also confirms the recognition by all involved that refugees—as victims of persecution and as people who have been forced to flee their homelands—are different from other immigrants.

Many refugees are able to rebuild their lives in America with minimal assistance. In fact, the employment rate for refugees is only slightly lower than that of the U.S. population. Furthermore, refugee use of all types of public benefits has declined significantly. The percentage of refugees receiving public benefits is similar to that of U.S. citizens. Even receipt of SSI, which is only available to the most vulnerable refugees, declined from 13.4% of refugees in 1994 to 9.2% in 1999.

Despite the fact that most refugees will ultimately be able to support themselves and their families without relying on public assistance, refugees who are elderly or disabled (often because of the extreme trauma they have suffered) may never be able to provide for their own means of support. For these refugees, SSI is a lifeline.

Barriers to Naturalization

Naturalization is one way that immigrants can gain full participation in U.S. society. For refugees and asylees particularly, U.S. citizenship can be a validation that they have been fully and completely accepted by the U.S. and can finally leave their "home" country—a place of hostility and suffering—behind.

While naturalization is a challenging process for many immigrants, it can be particularly daunting for elderly and disabled refugees. There are two types of barriers that stand in refugees' pathway to citizenship: (1) the inability to pass the citizenship examination, often because of physical and mental disabilities, low educational levels, and lack of access to naturalization outreach and education programs; (2) lengthy processing times of both naturalization and legal permanent residence (the required first step towards naturalization) applications caused by immigration service backlogs, security reviews, and service errors.

Applicants for naturalization must demonstrate that they have knowledge of written and spoken English and pass an exam in U.S. history and civics. Applicants who are over age 55 and have been in the U.S. for 15 years and applicants over age 50 who have been in the U.S. for 20 years are exempted from the English language requirement and can take the civics and history examination in their native language. However, these exemptions are not helpful for disabled or elderly refugees who rely on SSI benefits, as these refugees must naturalize within seven years of admission if they are to be continuously eligible for SSI.

Disabled naturalization applicants can request a waiver of the English language and/or the U.S. history and civics exam requirements. In order to qualify, a doctor must confirm that the applicant has a physical or mental impairment or combination of impairments that renders the applicant unable to learn English and/or the required U.S. history and government material. This waiver process is complex and can add a significant amount of time to the naturalization process, reducing further the likelihood that a disabled refugee will be able to naturalize within seven years. These problems are exacerbated for the most extremely disabled individuals (such as those who are completely homebound), who may not be able to access the help they need to begin the process of preparing and submitting the naturalization and disability waiver application.

Elderly and disabled refugees who manage to complete the citizenship exam are faced with immigration processing delays that can make it impossible to achieve citizenship within seven years. As a result, many of these "almost citizen" refugees lose their SSI benefits.

Refugees must have five years of legal permanent resident ("LPR") status before they become eligible to apply for naturalization. For refugees, LPR status is considered to begin on the date of arrival in the U.S. Asylee LPR status is deemed to

begin one year before the date their application for legal permanent residence is granted. Practically speaking, refugees have a two-year window during which they must apply for naturalization, complete the naturalization examination and interview, clear all required security checks, and take the oath of citizenship if they are to receive their SSI benefits without interruption.

Asylees have faced even greater delays in becoming citizens in part because they have faced a 10,000-per-year cap of those eligible to achieve LPR status. This cap resulted in a waiting list of approximately 180,000 asylees waiting for green cards, with those at the end of the line scheduled to wait 18 years to be eligible to apply for citizenship. Before the annual cap was finally repealed by the REAL ID Act of May 11, 2005, USCIS failed to utilize even the 10,000 adjustment "slots" to provide the maximum access to LPR status for asylees. This failure and resulting backlog was the subject of earlier litigation that was settled in favor of the asylees in *Ngwanyia v. Gonzalez*, 376 F. Supp. 2d 923, 2005 U.S. Dist. LEXIS 13942 (D. Minn. July 12, 2005) (court approval of settlement), but the ensuing delays have meant that in fact it has been impossible for asylees receiving SSI to naturalize within the seven year period.

Since USCIS assumed the immigration service functions of the former Immigration and Naturalization Service (INS) in March 2003, processing times for naturalization applications have generally decreased across the country. However, mostly because of lengthy security check delays, the naturalization process can still take years from the time the application is filed to the time the applicant takes the oath of citizenship.

Significantly contributing to naturalization processing delays are government background checks, which are conducted to ensure that people who have criminal backgrounds or who present a security risk to the U.S. do not receive legal permission to enter or remain in the country. While background checks have been a part of immigration processing for many years, these checks, also known as security clearances, have intensified since the Sept. 11, 2001 attacks on the United States. The requirements for more thorough screening of applicants for immigration benefits have added significantly to the workload of U.S. immigration officials, and in many cases have delayed the issuance of immigration benefits including naturalization. As a result, some applicants who pose no risk to the United States must wait for months or, in some cases, even years for their security checks to be completed.

Announcements by USCIS that they have diminished the backlogs and processing times for naturalization applications must also be carefully scrutinized. In September 2006, USCIS announced that the naturalization backlog had been reduced to five months, eliminating the backlog. However, in its new analysis of 1.1 million pending cases, USCIS excluded from counting approximately 960,000 cases, or 87% of the backlog, that it considers to be out of its control, such as those awaiting scheduling of a judicial oath ceremony and those pending an FBI name check. Also, in April 2006, USCIS announced that, in order to preclude lawsuits being filed by applicants when their cases have been pending for more than 120 days after the naturalization interview is conducted, USCIS has stopped scheduling interviews for applicants until their fingerprints and FBI name checks have cleared. Thus, applicants whose cases are pending with the FBI now face even longer delays and do not have the recourse of filing a lawsuit.

Refugees Who Lose SSI Suffer Irreparable Harm

Included among the typical refugee cases of loss of SSI of those who have not naturalized within seven years of admission to the U.S. that HIAS has seen is a 77-year-old widower who came to the Florida as a refugee from Ukraine, applied for citizenship soon after he became eligible, but waited two years to be called in for a naturalization interview by USCIS. During those two years, he lost his SSI. He lived in housing provided by a Jewish charity, which waived his monthly rent after he lost his SSI, but barely survived on \$109 in food stamps and his Medicare each month. Florida, unlike some other states, does not offer welfare or any other form of monetary support for adults who do not qualify for SSI. The man's only child, a son, was killed by a suicide bombing aboard a bus in Israel, and he had no family in the U.S. who could support him financially.

In another typical case, a husband and wife that arrived in Connecticut after leaving Russia as refugees lost their SSI because they were unable to naturalize within seven years. The husband, who has been a deaf-mute since age five, was 79 years old when he lost his SSI. Because of Russia's failure to educate individuals with disabilities, the man never learned to read or write. The wife was 81 years old when she lost her SSI and suffers from severe heart disease. Both submitted requests for a medical waiver of the English and civics requirements for naturalization, which remained pending even after they lost their SSI.

The Jewish Community Response

The American Jewish community has demonstrated a steadfast commitment to ensuring that Jewish arrivals to the United States receive support if and when they need it. Jewish community action in response to the loss of SSI has ranged from English and citizenship training and naturalization application assistance; to garnering community resources to try to keep those who have lost their benefits from becoming hungry or homeless; to advocacy for restoring benefits at the local, state, and national levels. Although charitable efforts can be helpful, sufficient resources are unavailable to help all those losing SSI benefits under the seven year policy.

Predicting the serious problems that would come to pass after welfare reform was adopted in 1996, HIAS developed a series of initiatives aimed at helping people—particularly in the Russian-speaking community—to naturalize. Despite HIAS' extensive efforts since the 1990s to preempt the looming problem, in 2003 considerable numbers of refugees around the country, who had been unable to naturalize and had fallen through the cracks because of language barriers, ill health or bureaucratic delays, began losing their SSI benefits. In the years 2003 and 2004, according to the Social Security Administration, close to 3,000 non-citizen refugees and asylees were terminated from SSI.

In 2005, HIAS launched the National SSI Initiative, with staff dedicated exclusively to assessing the nationwide scope of the SSI problem, providing data to HIAS' Washington, DC office to support ongoing efforts to achieve legislative change, providing naturalization assistance to individuals, producing citizenship and training materials, and developing a national network of professionals to provide pro bono assistance in preparing naturalization applications for needy refugees.

Statement of Alliance for Retired Americans

The Alliance for Retired Americans commends Chairman McDermott for holding a subcommittee hearing on the status of legally resident senior and disabled refugees within the Supplemental Security Income (SSI) program.

Founded in 2001, the Alliance for Retired Americans is a grassroots organization representing more than 3 million retirees and seniors nationwide. Headquartered in Washington, D.C., the Alliance's mission is to advance public policy that protects the health and security of older Americans by teaching seniors how to make a difference through activism.

SSI provides a minimal cash benefit to persons with very limited resources and who are elderly, blind or have a significant disability. In 1996, the welfare reform law—the Personal Responsibility and Work Opportunity Reconciliation Act—placed many restrictions on the availability of federal programs for legal immigrants. Although Congress eased some of these, it retained a time limit—initially five years, later extended to seven—that a refugee or asylee could receive SSI benefits as a non-citizen.

The rationale for the seven-year time limit may have had some validity when it was first enacted insofar as it was premised on the idea that seven years was sufficient time for individuals to complete the process of becoming a citizen. However, the aftermath of the 9/11 attacks has led to rigorous background check requirements and increased the time required to complete the naturalization process resulting in a multi-year backlog. In addition, prior to May 2005, there were caps on the number of asylees who could become permanent residents resulting in another backlog of applications for legal resident status thus delaying the start of their five-year waiting period for citizenship.

By their circumstances, elderly and disabled refugees are unlikely to be able to support themselves or to naturalize. These individuals arrived in the United States with little or no assets, are far less likely than most immigrants to have a family support network to fall back on, and are among the most vulnerable of SSI recipients. Many were denied educational opportunities in their home country and are not literate in any language. Due to their age or disability, many have physical and mental impairments.

In 2007, individual SSI beneficiaries receive monthly payments of up to \$623 and married couples receive up to \$934, which is 27 percent below the official poverty level. In some states this amount is supplemented. In most states, the loss of SSI eligibility also means the loss of Medicaid coverage. Consequently, in addition to a loss of financial assistance, elderly and disabled refugees who lose their SSI benefits will also lose their access to medical care. Originating in countries such as the former Soviet Union, Iraq, Cuba, Vietnam, Laos, Somalia and the former Yugoslavia, they came to this country to escape religious, ethnic or political persecution

in their native land and now annually face the prospects of serious deprivation in their adopted homeland.

Each year there are an increasing number of elderly and disabled refugees and other humanitarian immigrants who lose their SSI benefits upon the expiration of their seven year SSI eligibility period. The Social Security Administration estimates that nearly 12,000 elderly and disabled refugees and asylees have already lost their SSI benefits and that another 40,000 will lose benefits over the next ten years.

The United Nations High Commissioner for Refugees has expressed concern that eliminating essential services such as SSI benefits after seven years falls short of the objective that resettlement is intended to offer elderly and disabled refugees.

The Alliance for Retired Americans believes that SSI benefits should be restored to all legal immigrants whose status would have entitled them to benefits prior to the 1996 welfare reform law and that there should be no time limits imposed on when they acquire U.S. citizenship. Unless action is taken in this Congress, another 4,500 people will lose their SSI benefits this year, with many losing associated health care benefits as well. The Alliance urges Congress to pass legislation that will correct these wrongs. This is a crisis that can and should be averted. Humanitarian refugees who fled to the United States should be treated humanely.

